PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FOLGER:

H. R. 7244. A bill authorizing Maj. Caleb V. Haynes, United States Army, to accept and wear the decoration tendered him by the Government of Chile; to the Committee on Military Affairs.

By Mr. HENNINGS:

H. R. 7245. A bill for the relief of Henry Gideon Schiller; to the Committee on Immigration and Naturalization.

By Mr. KRAMER:

H. R. 7246. A bill for the relief of Madeline Vera Bucholz; to the Committee on Immigration and Naturalization.

By Mr. MYERS:

H. R. 7247. A bill for the relief of Harry Solomon; to the Committee on Military Affairs.

By Mr. ROUTZOHN:

H. R. 7248. A bill granting a pension to William Lennox; to the Committee on Invalid Pensions.

By Mr. SUTPHIN:

H. R. 7249. A bill to correct the discharge of Kenneth A. Cranmer; to the Committee on Naval Affairs.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

4665. By Mr. GEYER of California: Petition of Joe Williams and 135 others, asking that House bill 5994, the Geyer antilynching bill, or a similar measure, be enacted into law at this session of Congress; to the Committee on the Judiciary.

4666. Also, petition of Herbert Anderson and 121 others, asking that House bill 5994, the Geyer antilynching bill, or a similar measure, be enacted into law this session of Congress; to the Committee on the Judiciary.

4667. Also, petition of Mrs. Crystal Haiden and 89 others, asking that House bill 5994, the Geyer antilynching bill, or a similar measure, be enacted into law this session of Congress; to the Committee on the Judiciary.

4668. Also, petition of Tom Azoon and 48 others, asking that House bill 5994, the Geyer antilynching bill, or a similar measure, be enacted into law this session of Congress; to the Committee on the Judiciary.

4669. Also, petition of Bob Hillyer and 65 others, asking that House bill 5994, the Geyer antilynching bill, or a similar measure, be enacted into law this session of Congress; to the Committee on the Judiciary.

4670. Also, petition of C. H. Stojewa and 75 others, asking that House bill 5994, the Geyer antilynching bill, or a similar measure, be enacted into law this session of Congress; to the Committee on the Judiciary.

4671. By Mr. MICHAEL J. KENNEDY: Petition of the New York Chapter American Society of Landscape Architects of New York City, opposing House bill 6880, pertaining to an easement for the Battery-Brooklyn Bridge; to the Committee on Public Buildings and Grounds.

4672. Also, petition of the United States Independent Telephone Association, expressing approval of House bill 7133, which contains comprehensive exemptions to the Wage-Hour Act; to the Committee on Labor.

4673. Also, petition of the Travelers Protective Association of St. Louis, Mo., protesting against un-American activities by certain organizations, advocating balancing of the National Budget, advocating that this country maintain strict neutrality, and recommending that our immigration laws be made more rigid; to the Committee on Ways and Means.

4674. Also, petition of the Municipal Art Society of New York, opposing House bill 6880, the Cullen bill pertaining to an easement for the Battery-Brooklyn Bridge; to the Committee on Public Buildings and Grounds.

4675. By Mr. KEOGH: Petition of the E. W. Bliss Co., Brooklyn, N. Y., urging consideration of the Smith resolution (H. J. Res. 229); to the Committee on the Judiciary.

4676. Also, petition of George D. Brown, Jr., secretary, New York State Division of Housing, New York City, urging consideration and passage of House bill 2888; to the Committee on Banking and Currency.

4677. Also, petition of Hon. Edward J. Kelly, mayor of Chicago, favoring the passage of House bill 7120, the Steagall bill, and Senate bill 2758, the Barkley bill; to the Committee on Banking and Currency.

4678. Also, petition of United Electrical, Radio, and Machine Workers of America, New York City, concerning the restoration of prevailing trade-union rates for Works Progress Administration; to the Committee on Appropriations.

4679. Also, petition of the United States State Independent Telephone Association, Washington, D. C., concerning the Barden bill (H. R. 7133); to the Committee on Labor.

4680. Also, petition of the American Federation of Labor, Washington, D. C., concerning the Works Progress Administration situation; to the Committee on Appropriations.

4681. By Mr. KRAMER: Petition of residents of California relative to the Works Progress Administration; to the Committee on Appropriations.

4682. By Mr. PFEIFER: Petition of the New York State League of Savings and Loan Associations, New York City, urging consideration and passage of House bill 6971; to the Committee on Banking and Currency.

4683. Also, petition of the United States Independent Telephone Association, Washington, D. C., urging consideration of the Barden bill (H. R. 7133); to the Committee on Labor.

4684. Also, petition of the American Federation of Labor, Washington, D. C., concerning the Works Progress Administration situation; to the Committee on Appropriations.

4685. Also, petition of Edward J. Kelly, mayor of Chicago, Ill., urging consideration and support of House bill 7120 and Senate bill 2759; to the Committee on Roads.

4686. Also, petition of employees of the Northport, N. Y., post office, urging support and passage of House bill 5479 with Senate amendments; to the Committee on the Post Office and Post Roads.

4687. By Mr. WHITE of Idaho: Petition signed by 95 citizens of Caldwell, Idaho, calling upon Congress to do something for the correction of the present economic conditions due to the control by international bankers over credits and thence over wages and prices of farm products and industrial output; to the Committee on Banking and Currency.

4688. By the SPEAKER: Petition of the Walker County Board of Revenue, Jasper, Ala., petitioning consideration of their resolution with reference to Works Progress Administration relief legislation; to the Committee on Appropriations.

4689. Also, petition of the city of Garfield Heights, Cuyahoga County, Ohio, petitioning consideration of their resolution with reference to Works Progress Administration relief legislation; to the Committee on Appropriations.

4690. Also, petition of W. H. Hariman, Waterloo, Iowa, and others, petitioning consideration of their resolution with reference to Works Progress Administration relief legislation; to the Committee on Appropriations.

4691. Also, petition of the District of Columbia Council, United Federal Workers of America, Washington, D. C., petitioning consideration of their resolution with reference to work-relief legislation; to the Committee on Appropriations.

SENATE

MONDAY, JULY 17, 1939

(Legislative day of Monday, July 10, 1939)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

The Reverend Duncan Fraser, assistant rector, Church of the Epiphany, Washington, D. C., offered the following prayer:

O God of Peace, who hast taught us that in returning and rest we shall be saved, in quietness and confidence shall be our strength: Come Thou and dwell amongst us as Thou wert in the midst of Thy disciples, and with Thy great might succor us; that, standing in Thy presence and Thou in our midst, our labors may be prospered in all godliness and

quietness, righteousness, and peace, so that at the last we may come to those unspeakable joys which Thou hast prepared for those that love Thee. Through Thy Son our Saviour Jesus Christ. Amen.

THE JOURNAL

On request of Mr. BARKLEY, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Friday, July 14, 1939, was dispensed with, and the Journal was approved.

CALL OF THE ROLL

Mr. MINTON. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Davis	Johnson, Colo.	Reed
Andrews	Donahey	King	Russell
Ashurst	Downey	La Follette	Schwartz
Austin	Ellender	Lee	Schwellenbach
Bankhead	Frazier	Logan	Sheppard
Barbour	George	Lucas	Shipstead
Barkley	Gerry	Lundeen	Slattery
Bilbo	Gibson	McKellar	Stewart
Bone	Gillette	McNary	Taft
Borah	Glass	Maloney	Thomas, Okla.
Bridges	Green	Miller	Thomas, Utah
Bulow	Guffey	Minton	Townsend
Burke	Gurney	Murray	Truman
Byrd	Hale	Neely	Tydings
Byrnes	Harrison	Norris	Vandenberg
Capper	Hatch	Nye	Van Nuys
Chavez	Hayden	O'Mahoney	Walsh
Clark, Idaho	Hill	Overton	Wheeler
Clark, Mo.	Holman	Pepper	White
Connally	Hughes	Pittman	Wiley
Danaher	Johnson, Calif.	Radcliffe	

Mr. MINTON. I announce that the Senator from North Carolina [Mr. REYNOLDS], the Senator from New Jersey [Mr. SMATHERS], and the Senator from South Carolina [Mr. SMITH] are detained from the Senate because of illness in their families.

The Senator from North Carolina [Mr. BAILEY], the Senator from Michigan [Mr. BROWN], the Senator from Arkansas [Mrs. CARAWAY], the Senator from Iowa [Mr. HERRING], the Senator from West Virginia [Mr. HOLT], the Senator from Nevada [Mr. MCCARRAN], and the Senators from New York [Mr. MEAD and Mr. WAGNER] are absent on important public business.

Mr. AUSTIN. I announce that the Senator from Massachusetts [Mr. LODGE] is necessarily absent on official business.

The VICE PRESIDENT. Eighty-three Senators have answered to their names. A quorum is present.

UNVEILING OF STATUE OF WILL ROGERS—PRINTING OF PROCEEDINGS

The VICE PRESIDENT laid before the Senate House Concurrent Resolution 29, which was read, as follows:

Resolved, etc., That there be printed with illustrations and bound, in such form and style as may be directed by the Joint Committee on Printing, the proceedings in Congress at the unveiling in the rotunda, together with such other matter as the joint committee may deem pertinent thereto, upon the occasion of the acceptance of the statue of Will Rogers, presented by the State of Oklahoma, 5,200 copies; of which 1,000 copies shall be for the use of the Senate, and 2,700 copies for the use of the House of Representatives, and the remaining 1,500 copies shall be for the use of and distribution by the Senators and Representatives in Congress from the State of Oklahoma.

SEC. 2. The Joint Committee on Printing is hereby authorized to have the copy prepared for the Public Printer, who shall provide suitable illustrations to be bound with these proceedings.

Mr. HAYDEN. I move that the Senate concur in the House resolution.

The motion was agreed to.

ENROLLED BILL SIGNED DURING RECESS

Under authority of the order of the 14th instant,

On July 15, 1939, the enrolled bill (H. R. 5610) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of such District for the fiscal year ending June 30, 1940, and for other purposes, which had previously been signed by the Speaker of the House of Representatives, was signed by the Vice President.

SPECIAL COMMITTEE ON CONSERVATION AND UTILIZATION OF AQUATIC LIFE—RESIGNATION OF MEMBER

The VICE PRESIDENT laid before the Senate the following letter of resignation, which was ordered to lie on the table:

UNITED STATES SENATE,
July 14, 1939.

To the PRESIDENT OF THE SENATE:

I hereby tender my resignation as a member of Committee on Conservation and Utilization of Aquatic Life.

Sincerely yours,

FRANCIS T. MALONEY,
United States Senate.

FINANCIAL AND OTHER DATA PERTAINING TO SUNDRY GOVERNMENTAL AGENCIES AND CORPORATIONS (S. DOC. NO. 96)

The VICE PRESIDENT laid before the Senate a letter from the Secretary of the Treasury, transmitting, in partial response to Senate Resolution 150 (76th Cong.), copies of the last annual reports of certain agencies, except for the following agencies or corporations: Reconstruction Finance Corporation, RFC Mortgage Co., Disaster Loan Corporation, Federal National Mortgage Association, Public Works Administration, Federal Crop Insurance Corporation, and Tennessee Valley Associated Cooperatives, Inc., and stating that the financial reports and statements called for by the resolution will require several months to compile, and that they will be transmitted promptly upon completion, which, with the accompanying paper, was referred to the Committee on Banking and Currency and ordered to be printed.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate a joint resolution in the nature of a petition of the Legislature of Wisconsin, praying that the various Federal departments, institutions, and agencies which have made loans upon real estate in the State of Wisconsin submit to that State's moratorium and mediation laws relative to foreclosures, which was referred to the Committee on Banking and Currency.

(See resolution printed in full when presented today by Mr. WILEY.)

He also laid before the Senate a resolution of the Westchester Council of Industrial Unions, of Yonkers, N. Y., favoring the making of sufficient appropriations to maintain prevailing wage standards on all relief work for skilled employees, and the elimination of the policy of lengthening the hours of work under the W. P. A., which was referred to the Committee on Appropriations.

He also laid before the Senate a resolution of the District of Columbia Council, United Federal Workers of America, C. I. O., praying for the enactment of the bill (S. 2765) to amend the Emergency Relief Appropriation Act of 1939 to provide for the reestablishment of the prevailing rates of pay for persons employed upon work projects, which was referred to the Committee on Appropriations.

He also laid before the Senate a petition of sundry citizens of San Francisco, Calif., praying for the repeal of clauses in the recently enacted W. P. A. joint resolution to the effect that W. P. A. workers work 130 hours per month for the same monthly wage they received for 68 hours or less; that all workers employed for 18 months or more take an enforced 30-day vacation; and that the Federal theater be eliminated and Federal sponsorship of the writers, art, music, and historical records projects be withdrawn, which was referred to the Committee on Appropriations.

He also laid before the Senate a motion adopted by the City Council of Quincy, Ill., to the effect that the prayer of the Illinois Workers Alliance be granted requesting the city council to go on record as having made protest to Congress against the new law which has been placed in force governing the W. P. A., forcing workers to work 130 hours for the same amount of pay; also, to protest against the ruling of the 30-day lay-off of all W. P. A. workers who have been on the rolls for 18 months or more, etc., which was referred to the Committee on Appropriations.

He also laid before the Senate a cablegram from the Puerto Rico General Anti-Tuberculosis Association, San Juan, P. R., praying for the enactment of the bill (S. 2547) to impose

additional duties upon the United States Public Health Service in connection with the investigation, treatment, and control of tuberculosis, which was referred to the Committee on Finance.

He also laid before the Senate a resolution of the Council of the City of Newport News, Va., favoring the prompt enactment without amendment of the bill (S. 591) to amend the United States Housing Act of 1937, and for other purposes, which was ordered to lie on the table.

He also laid before the Senate petitions of sundry citizens of the United States praying for the prompt enactment of legislation to withdraw the protection of the interstate-commerce laws from liquor advertising crossing State lines with the view that State regulations and laws on the subject may be made adequate and effective, which were ordered to lie on the table.

Mr. VANDENBERG presented petitions, numerously signed, of sundry citizens of the State of Michigan, praying that the traffic in arms and munitions to Japan for use in operations in China may be stopped, which were referred to the Committee on Foreign Relations.

Mr. WALSH presented a resolution of the National Paperboard Association, Chicago, Ill., protesting against the loan of public funds by the R. F. C. or other agencies to promote the construction of any additional paper mills, which was referred to the Committee on Banking and Currency.

Mr. SCHWELLENBACH presented numerous telegrams, resolutions, and letters in the nature of petitions, praying that the subcommittee of the Committee on Education and Labor investigating violations of civil liberties, etc., be continued and that adequate funds be allotted for the work of the subcommittee, which were referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

WAGES OF W. P. A. RELIEF WORKERS

Mr. MALONEY. Mr. President, I desire to call the attention of the Members of the Senate very briefly at this time to what appears to me to be the crystallization of a serious situation. I quote an article by Bruce Catton which appeared in many newspapers of the country on Friday. Under a Washington date line, the article reads:

PAY CUTS PROMISE STILL MORE W. P. A. DISCORD ON SEPTEMBER 1

(By Bruce Catton)

WASHINGTON.—The W. P. A. authorities are saying privately that if you think they are having trouble now with Nation-wide strikes against the abolition of the prevailing-wage rule for relief work, you should just try looking ahead to next September. Then, they say, is when the real trouble is likely to begin.

Under the new W. P. A. bill the differential hitherto paid between North and South is abolished, effective September 1.

Taking the country as a whole, the average monthly wage for W. P. A. work has been $52.50. The new law provides that this shall not substantially be changed, but that no more may be paid for any type of work in one locality than is paid for the same type of work in another locality, except where some change is justified by differences in the cost of living.

This provision, say the W. P. A. authorities, is simply going to mean that relief workers throughout the Northern and Middle Western States are going to get a substantial pay reduction on September 1. At the same time, they say, relief workers in the South will get a pretty substantial increase.

COST OF LIVING JUST CONFUSING

The cost-of-living provision doesn't help much, because so far W. P. A. hasn't found any way of figuring out exactly what the cost of living is. It has some figures compiled by the Bureau of Labor Statistics, but these are kept up to date only on some thirty-odd selected cities in the country, whereas W. P. A. has projects just about everywhere. How the cost is to be worked out for all W. P. A. cities and towns nobody knows; but in any case, it is predicted that the differences between different localities won't amount to enough to avert the sweeping pay reductions.

Right now the relief workers who are on strike are getting as much money as they did before. The only difference is that they have to work longer to get it. The ironic part about it is that whereas the other changes in the W. P. A. bill were made over the administration's objection, this particular change was made with Administrator Harrington's full approval.

The prevailing-wage rule, as Harrington saw it, resulted in inefficiency in W. P. A. building projects; a foreman on a given job might have one crew putting in 60 hours a month, another crew doing 75, another doing 90, and still another doing 110. Under those circumstances, he was likely to have a terrible time getting his job done smoothly.

In addition, Harrington felt that the prevailing-wage rule paved the way for a good deal of chiseling. There were cases in which a relief worker enjoying a high hourly pay rate would finish his weekly W. P. A. stint in 15 hours, and would use his spare time to get a part-time job somewhere else, so that his total earnings came to more than many workers in private industry were getting.

SOUTH'S NONRELIEFERS MAY SQUAWK

At any rate, W. P. A. has its hands full of trouble now and expects that the trouble it will get next fall will make the present difficulties look mild. For, as one official expressed it, if thousands of relief workers angrily strike because they have to work more hours but still get just as much money, what aren't they likely to do when they find that their pay will be cut, too?

A flare-back from the nonrelief people in the South is perfectly possible, too; for W. P. A. figures that in some sections of the South under the new rule relief pay will actually be higher than the pay scale in private industry. If that happens, energetic action by some of the very Congressmen who voted the new rule into effect can be looked for.

Just to make the September horizon look worse, at the same time that the pay cuts go into effect all W. P. A. workers who have been on the rolls for 18 months or more must be laid off for 30 days without pay.

All in all, the W. P. A. high command isn't looking forward to the autumn with any noticeable degree of enthusiasm.

Mr. President, I shall not read longer from this article at this particular time, because the time for debate this afternoon is limited; but I should like to impress upon Senators, if I can, that this threatens to be a very serious situation. If I read aright the articles which seem to come from the head of the W. P. A. and the W. P. A. agencies, it is the intention very seriously and substantially to cut the wages of more than a million relief workers in the North and in the West.

In an endeavor to offset this threatened wage cut, I have communicated with Colonel Harrington. I have been over the law rather carefully, and because I am familiar, I think, with what Congress intended, I have endeavored to show Colonel Harrington that it was not the intention of any Member of the Senate that this wage cut of the relief worker be put into effect.

Anxious to permit the debate on the unfinished business to proceed, but intending to discuss this matter at some length, probably at a little later date, I now ask unanimous consent that there be published in the RECORD as a part of my remarks a copy of the letter which I have written to Colonel Harrington upon this subject.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JULY 14, 1939.

Col. F. C. HARRINGTON,
Administrator, Work Projects Administration,
Washington, D. C.

MY DEAR COLONEL HARRINGTON: Because I am so much concerned with the possible reduction of the wages of W. P. A. relief workers in the North, I am taking the liberty of calling your attention to subsection (a) of section 15 of Public Resolution No. 24. The language therein provides that "the Commissioner shall fix a monthly earning schedule for persons engaged upon work projects financed in whole or in part from funds appropriated by section 1 which shall not substantially affect the current national average labor cost per person of the Work Projects Administration." The section further reads: "After August 31, 1939, such monthly earning schedule shall not be varied for workers of the same type in different geographical areas to any greater extent than may be justified by differences in the cost of living."

My hope that the wages of relief workers in the North may be maintained is based upon the word substantially in the quotation above, and further upon the references in the differences in the cost of living. It is my feeling, because the relief workers of the South are comparatively few in number, that the maintenance of the present relief-worker wage in other parts of the country would not substantially affect the current national average labor cost per person.

I think that the language of the law might allow you a sufficient leeway and authority to maintain the wage which has been paid in the North. I know that was the intent of the committee and the Senate.

While I feel that in at least a few instances the salaries of nonrelief administrative employees are too high, I do not think that the wages paid to the certified relief workers are in any instance too high. Actually these men receive a subsistence wage, and to cut it down as the result of the amended law would work a terrible hardship on thousands of families.

I shall appreciate such consideration as you may give this suggestion, and I will be additionally grateful if I may have some word from you concerning the matter.

Sincerely yours,

FRANCIS T. MALONEY,
United States Senate.

DAIRY INDUSTRY OF WISCONSIN

Mr. WILEY. Mr. President, I desire to make a few remarks, and in connection therewith I offer first to be printed in the RECORD and appropriately referred a joint resolution of the Assembly and Senate of Wisconsin, part of which I desire to read. The resolution reads in part:

Resolved by the senate (the assembly concurring), That this legislature respectfully petitions and urges the Federal Surplus Commodities Corporation to purchase dairy and cheese products of Wisconsin for distribution to relief agencies, so that the market and prices for the farmer will be protected and restored and will not be cudgeled by adverse surpluses.

I offer the entire resolution for the RECORD.

The resolution was referred to the Committee on Agriculture and Forestry, as follows:

Senate Joint Resolution 22

Joint resolution memorializing the Federal Surplus Commodities Corporation to purchase dairy and cheese products of Wisconsin

Whereas the production of milk is the most important part of Wisconsin agriculture, leading all States by supplying 19 percent of the milk used in the manufacture of dairy products in the United States; and

Whereas thousands of Wisconsin farmers and their families labor for their livelihood and depend upon the administration to maintain favorable marketing conditions for their dairy and cheese products; and

Whereas during the last year there has been an unprecedented quantity of cheese and butter held in cold storage which has been wielded by the unscrupulous to beat down the prices of these food products to a level that will not cover the cost of production; and

Whereas these inventories should be reduced and released in order to make available large supplies of food to the undernourished babies and children and stinted and peaked underprivileged men of the country; and

Whereas the Federal Surplus Commodities Corporation is authorized and enabled to strike a direct blow at the economic paradox which has choked the farmers of the country with a superabundance of food products while many of the unemployed and persons on relief have gone hungry; and

Whereas these supplies of cheese and butter and milk should be procured and distributed immediately so as to scotch and eliminate these price-depressing surpluses from the usual and ordinary course of business by encouraging and developing the consumption of these dairy products and thereby restore a fair level of return to the dairy farmer: Now, therefore, be it

Resolved by the senate (the assembly concurring), That this legislature respectfully petitions and urges the Federal Surplus Commodities Corporation to purchase dairy and cheese products of Wisconsin for distribution to relief agencies so that the market and prices for the farmer will be protected and restored and will not be cudgeled by adverse surpluses; and be it further

Resolved, That properly attested copies of this resolution be transmitted to the President of the United States, the Federal Surplus Commodities Corporation, and to each Wisconsin Member of Congress.

Mr. WILEY. Mr. President, I was particularly interested in the remarks of the Senator from Connecticut [Mr. MALONEY], who referred to the situation of the W. P. A. workers. I wish to say that the wage paid to the W. P. A. workers provided by the act of Congress is a great deal higher than the average farmer in Wisconsin is making from his farm. We must not forget the folks who produce and the folks who are paying the taxes and carrying the load.

FARM MORATORIUMS

Mr. President, at this time I also wish to present for the RECORD and have referred and printed as a part of my remarks a joint resolution of the Assembly and Senate of Wisconsin relating to the matter of farm moratorium.

Away back in March, I introduced into the Senate of the United States a joint resolution in which I asked that the Federal Government treat the farmers of the United States in a decent manner, asking, in other words, that a moratorium statute be put into effect to the end that the mortgages which were held by the Government be not put into a squeeze play, so to speak, thus depriving the farmers of their homes. That resolution has died, apparently. We have asked the committee for action. We have received none. Recently the Senate and Assembly of Wisconsin passed a joint resolution in which they called the attention of the country to this situation.

I offer at this time the resolution in connection with my remarks, and ask that it be printed in the RECORD.

The joint resolution of the Legislature of Wisconsin, was referred to the Committee on Banking and Currency, as follows:

Assembly Joint Resolution 117, A

Joint resolution relating to petitioning Federal departments, institutions, and agencies which have made loans upon real estate in this State to submit to this State's moratorium and mediation laws relative to foreclosures

Whereas chapter 5, laws of the special session of 1937, repealed subsection (1) of section 281.21 of the statutes which subsection had exempted Federal departments, institutions, and agencies from the provisions of the moratorium and mediation laws; and

Whereas on May 9, 1939, the supreme court of our State in the case of *Home Owners' Loan Corporation* v. *R. W. Robinson and wife* held that the repeal of said subsection (1) could not be upheld as emergency legislation; that the legislature was without power to pass a law which would retroactively affect loans made by Federal agencies during the time they were not subject to moratorium and mediation laws; and

Whereas such holding will result in the heaping of additional hardships upon home, farm, and other real estate owners of this State where such property has been given as security for loans from Federal departments, institutions, or agencies unless the latter submit to the provisions of this State's moratorium and mediation laws: Now, therefore, be it

Resolved by the assembly (the senate concurring), That this legislature hereby petitions the various Federal departments, institutions, and agencies foreclosing or contemplating the foreclosing of loans held by them and secured by homes, farms, and other real estate in this State, to voluntarily submit to the provisions of the moratorium and mediation laws of this State relating to foreclosures; be it further

Resolved, That duly attested copies of this resolution be sent to the President of the United States, to both Houses of Congress, and to each Wisconsin Member thereof, and to the Federal departments, institutions, and agencies which have lent money upon real estate in this State.

REPORTS OF COMMITTEES

Mr. ELLENDER, from the Committee on Claims, to which was referred the bill (S. 2408) for the relief of Russell B. Hendrix, reported it with amendments and submitted a report (No. 807) thereon.

Mr. BURKE, from the Committee on Claims, to which was referred the bill (S. 1376) for the relief of Cothran Motors, Inc., reported it without amendment and submitted a report (No. 798) thereon.

Mr. O'MAHONEY, from the Committee on the Judiciary, to which was referred the bill (S. 2478) to limit the operation of sections 109 and 113 of the Criminal Code and section 190 of the Revised Statutes of the United States with respect to counsel in certain cases, reported it with an amendment and submitted a report (No. 799) thereon.

Mr. SHEPPARD, from the Committee on Military Affairs, to which was referred the bill (S. 2769) to amend section 55, National Defense Act, as amended, to provide for enlistment of men up to 45 years of age in technical units of the Enlisted Reserve Corps, reported it without amendment and submitted a report (No. 800) thereon.

He also, from the same committee, to which was referred the bill (H. R. 5735) to authorize the acquisition of additional land for military purposes, reported it with an amendment and submitted a report (No. 812) thereon.

Mr. JOHNSON of Colorado, from the Committee on Military Affairs, to which was referred the bill (H. R. 2168) to authorize the Secretary of War to make contracts, agreements, or other agreements for the supplying of water to the Golden Gate Bridge and Highway District, reported it without amendment and submitted a report (No. 801) thereon.

Mr. HOLMAN, from the Committee on Military Affairs, to which was referred the bill (H. R. 2967) to grant to the State of California a retrocession of jurisdiction over certain rights-of-way granted to the State of California over a certain road about to be constructed in the Presidio of San Francisco Military Reservation, reported it without amendment and submitted a report (No. 802) thereon.

Mr. AUSTIN, from the Committee on Military Affairs, to which was referred the bill (H. R. 3305) for the relief of Charles G. Clement, reported it without amendment and submitted a report (No. 803) thereon.

Mr. MINTON, from the Committee on Military Affairs, to which was referred the bill (S. 2511) to correct the military

record of John W. Bough, reported it with an amendment and submitted a report (No. 805) thereon.

Mr. GURNEY, from the Committee on Military Affairs, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

S. 2288. An act for the relief of John H. Balmat, Jr. (Rept. No. 811); and

H. R. 6870. An act to grant to the Commonwealth of Massachusetts a retrocession of jurisdiction over the General Clarence R. Edwards Memorial Bridge, bridging Watershops Pond of the Springfield Armory Military Reservation in the city of Springfield, Mass. (Rept. No. 804).

Mr. ASHURST, from the Committee on Indian Affairs, to which was referred the bill (S. 432) to provide for the public auction of certain town lots within the city of Parker, Ariz., reported it with an amendment and submitted a report (No. 809) thereon.

Mr. KING, from the Committee on Territories and Insular Affairs, to which was referred the bill (S. 2738) to ratify and confirm Act 58 of the Session Laws of Hawaii, 1939, extending the time within which revenue bonds may be issued and delivered under Act 174 of the Session Laws of Hawaii, 1935, reported it without amendment and submitted a report (No. 806) thereon.

He also, from the same committee, to which was referred the bill (S. 2784) to amend section 4 of the act entitled "An act to provide a civil government for the Virgin Islands of the United States," approved June 22, 1936, reported it with amendments and submitted a report (No. 808) thereon.

Mr. RUSSELL, from the Committee on Immigration, to which was referred the bill (H. R. 5494) for the relief of John Marinis, Nicolaos Elias, Ihoanis or Jean Demetre Votsitsanos, and Michael Votsitsanos, reported it without amendment.

Mr. HILL, from the Committee on Military Affairs, to which was referred the bill (H. R. 3321) to provide allowances for uniforms and equipment to certain officers of the Officers' Reserve Corps, reported it without amendment and submitted a report (No. 810) thereon.

Mr. THOMAS of Oklahoma, from the Committee on Indian Affairs, to which were referred the following resolutions, reported them each without amendment and submitted reports thereon:

S. J. Res. 130. Joint resolution referring the claims of the Kiowa, Comanche, and Apache Tribes of Indians in Oklahoma to the Court of Claims for finding of fact and report to Congress (Rept. No. 813); and

Senate Resolution 165 (submitted by Mr. BONE on the 14th instant), requesting a temporary stay of proceedings for adjudication of water rights for irrigation of Ahtanum Creek Valley in the State of Washington (Rept. No. 814).

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER (S. DOC. NO. 95)

Mr. O'MAHONEY presented a letter from the chairman of the Temporary National Economic Committee (signed by himself as chairman), submitting a preliminary report on the investigation of the committee made pursuant to Public Resolution 113 (75th Cong., 3d sess.), authorizing and directing a select committee to make a full and complete study and investigation with respect to the concentration of economic power in, and financial control over, production and distribution of goods and services, which, with the accompanying report, was referred to the Committee on the Judiciary and ordered to be printed.

BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. WALSH:

S. 2809. A bill for the relief of Ernest H. Steinberg; to the Committee on Claims.

By Mr. SHEPPARD:

S. 2810. A bill for the relief of James Henry Mayes; to the Committee on Claims.

S. 2811. A bill to amend section 9 of the act approved February 28, 1925, reclassifying the salaries of postmasters and employees of the Postal Service; to the Committee on Post Offices and Post Roads.

By Mr. ASHURST:

S. 2812 (by request). A bill to extend the terms of judges of the District Courts in Alaska, Hawaii, and the Virgin Islands to 8 years; to the Committee on the Judiciary.

By Mr. THOMAS of Oklahoma:

S. 2813. A bill for the relief of the surviving dependents of James R. McCoy; to the Committee on Claims.

S. 2814. A bill for the relief of the dependent children of the late Frank M. Eaton; to the Committee on Naval Affairs.

By Mr. PEPPER:

S. 2815. A bill making an appropriation to reimburse the Fort Pierce Port District, of Fort Pierce, Fla., for work done in improving the Fort Pierce Harbor; to the Committee on Appropriations.

S. 2816. A bill for the relief of G. C. Barco; and

S. 2817. A bill for the relief of J. H. Churchwell Wholesale Co., of Jacksonville, Fla.; to the Committee on Claims.

S. 2818. A bill granting a pension to Olivia Stebbins; to the Committee on Pensions.

By Mr. NEELY:

S. 2819. A bill granting a pension to James C. Neff;

S. 2820. A bill granting a pension to Mary Pauline Payne; and

S. 2821. A bill granting an increase of pension to Sarah V. Ashcraft; to the Committee on Pensions.

By Mr. BARKLEY:

S. 2822. A bill granting a pension to Mabel Turner; to the Committee on Pensions.

By Mr. LUNDEEN:

S. J. Res. 175. Joint resolution to provide for the observance and celebration of the four hundredth anniversary of the discovery of the Mississippi River by Hernando De Soto; to the Committee on the Library.

THE CONSTITUTION AND THE WILL OF THE PEOPLE—ADDRESS BY SENATOR BYRNES

[Mr. HARRISON asked and obtained leave to have printed in the RECORD an address on the subject, The Constitution and the Will of the People, delivered by Senator BYRNES at the assembly of the American Bar Association, San Francisco, Calif., July 12, 1939, which appears in the Appendix.]

ANTISEMITISM—STATEMENT BY SENATOR TAFT

[Mr. BARBOUR asked and obtained leave to have printed in the RECORD a statement by Senator TAFT entitled "Laying Ghosts of Ignorance," accompanying a book by Samuel Walker McCall, which appears in the Appendix.]

THE GRADUATE AND THE GOVERNMENT—ADDRESS BY JAMES A. FARLEY

[Mr. MILLER asked and obtained leave to have printed in the RECORD an address entitled "The Graduate and the Government," delivered by Hon. James A. Farley, Postmaster General, to the graduating class of Hendrix College, Conway, Ark., on June 4, 1939, which appears in the Appendix.]

WARS OF ENGLAND AND FRANCE—ARTICLE FROM SEATTLE STAR

[Mr. BONE asked and obtained leave to have printed in the RECORD an article published in the Seattle Star of July 10, 1939, entitled "England and France: Are They for Peace or War?", and giving a list of the wars of England and of France from 1778 to date, which appears in the Appendix.]

BUSINESS CONDITIONS—EDITORIAL FROM WASHINGTON TIMES-HERALD

[Mr. MINTON asked and obtained leave to have printed in the RECORD an editorial entitled "Business Better—No Summer Slump," published in the Washington Times-Herald, which appears in the Appendix.]

SILVER PURCHASE PROGRAM—EDITORIAL FROM MINNEAPOLIS TRIBUNE

[Mr. TOWNSEND asked and obtained leave to have printed in the RECORD an editorial from the Minneapolis Tribune of July 11, 1939, entitled "Our Foreign Silver Purchases," which appears in the Appendix.]

FREE COMPETITION—EDITORIAL FROM CHICAGO DAILY NEWS

[Mr. WILEY asked and obtained leave to have printed in the RECORD the second of a series of editorials from the Chicago Daily News of July 11, 1939, relating to the economic system of the United States, which appears in the Appendix.]

EMIL SCHRAM

Mr. LUCAS. Mr. President, under the reorganization plan adopted by the Congress the Honorable Jesse Jones, of Texas, has been selected by the President as Administrator of the Federal Loan Agency. I doubt if there is a Member of the Senate who does not applaud that appointment.

However, I rise today to talk about the Honorable Emil Schram, who has been selected as Chairman of the Board of Directors of the Reconstruction Finance Corporation to fill the vacancy created by the promotion of Mr. Jones.

It has been my good fortune to know Mr. Schram for a number of years. His home is in my congressional district. I know of his success as a farmer and overseer of a large drainage district in the Illinois Valley. Perservance and industry in what at times seemed an almost hopeless task finally conquered the elements, and today he owns some of the finest lands in the Illinois Valley.

The same perserverance, courage, and industry are the characteristics which have made him a success as a member of the board of directors of the Reconstruction Finance Corporation. Courteous but firm, sympathetic but careful, he has made an enviable record in the handling of loans and credit for the rehabilitation of drainage districts throughout the Nation. As managing director of the Disaster Loan Corporation he disbursed millions upon millions of dollars in the flooded areas of the Mississippi and Ohio Valleys and other parts of the country. In addition to this, he has given his time and energy to his duties as President of the Board of Trustees of the Electric Home and Farm Authority, as a member of the Board of Trustees of the Federal National Mortgage Association, and as a member of the Board of Directors of the Federal Prisons Industries representing agriculture.

I prophesy that as Chairman of the Board of Directors of the Reconstruction Finance Corporation Mr. Schram will be a worthy successor to Mr. Jones, and will carry out the program laid down by the Congress of the United States in a highly efficient, economical, and businesslike manner.

Mr. President, in this morning's New York Times there appears an article written by Joseph Alsop and Robert Kintner entitled "Schram a Link for Businessmen with New Deal as Head of R. F. C." I ask unanimous consent that this article be placed in the RECORD following these remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times of July 17, 1939]

SCHRAM A LINK FOR BUSINESSMEN WITH NEW DEAL AS HEAD OF R. F. C.—URGED BY JESSE JONES AS SUCCESSOR, INDIANAN HAS HAD SUCCESS AS A FARMER AND IN MANAGING FEDERAL LOAN AGENCIES

(By Joseph Alsop and Robert Kintner)

WASHINGTON, July 16.—Kipling's line "East is east and west is west, and never the twain shall meet" rather accurately describes the relations between the New Dealers and their rivals, the orthodox Democrats, and old-line Government officials. Casual encounters are rare enough, except when Harry Hopkins plays bridge with Jesse Jones; and it is almost unheard of for any individual to keep a foot in both camps.

However, Emil Schram, slated to be the new chairman of the Reconstruction Finance Corporation, manages to combine a good many of the best qualities of each group of his friends. He is probably the only man in the Government whose work is admired equally warmly by Jesse H. Jones and Thomas Corcoran, and he is certainly the only one whose career has been jointly fostered by this ill-assorted pair.

Mr. Schram's elevation to the R. F. C. chairmanship is significant for that very reason. With regard to general policy, he may be expected to follow the liberal principles dear to New Deal hearts. With regard to specific methods he will imitate the businesslike habits of his extremely able and successful predecessor in the chairmanship. Meanwhile, lowering of R. F. C. interest rates, which is likely to be carried through by him, will intimately affect all business and particularly banking.

Mr. Schram is a tall, middle-aged, slightly bald man, with a deep voice, a pleasant manner, and a gift for self-containment. He looks like a businessman from a small city, but the truth is that he first made his mark as a farmer.

TURNED SWAMP INTO FARM

He is the third generation in a family of German immigrants. The grandfather, a skilled wood carver, settled in Peru, Ind., a woodworking center. There Emil Schram was born, got his schooling, and after high school went to work in the office of J. O. Cole, coal and timber operator. Mr. Cole was impressed by the boy. First he made him bookkeeper. When young Schram was 21 Mr. Cole chose him to develop a 5,000-acre tract of semiswampland on the banks of the Illinois River.

The land was exceedingly rich but almost under water. Emil Schram, who knew nothing of farming, had first to get it drained, protected from the river by levees, and prepared for planting. Then he had to make it produce.

In the first year the land yielded 6,000 bushels of corn; in the second, 13,000 bushels; and, in the third, 100,000 bushels. Last year the yield was 140,000 bushels of corn and 35,000 of wheat. Many of its 20 tenant families had celebrated their thirtieth anniversary on the property, and the land was still making a fair return.

The fact that his farm was on swampland was what brought Emil Schram into the New Deal. Drainage and irrigation districts and their problems are an old story in Washington. During the Hoover administation they got into trouble by the score and Mr. Schram, who was chairman of the National Drainage Association, used to struggle to get something done for them. His own levee had been "topped" by the turbulent Illinois, and he desperately needed help himself.

GOT LOAN FOR LAND DRAINAGE

The New Deal, always more susceptible to such pleas, gave in to Mr. Schram. Loans for the drainers and irrigators were arranged at the Reconstruction Finance Corporation, and Jesse Jones asked Mr. Schram to take charge of the program. It was a difficult job, for many of the districts were broke already, but Mr. Schram carried it through with complete success.

Then the Electric Home and Farm Authority, a Tennessee Valley Authority subsidiary financing sales of electrical equipment to home owners, got itself into serious difficulties. It was adopted, as a sort of foster child, by Tommy Corcoran, who still calls it "Little Eva." Brought over to the Reconstruction Finance Corporation, it was put under Mr. Schram, who actually managed to put it on a paying basis. Currently Electric Home and Farm Authority's depleted capital has been restored, electrical appliances are selling like hot cakes, and its $10,000,000 in loans outstanding are in first-class shape.

This second success was quickly noted by Jesse Jones, who had Mr. Schram named to the Reconstruction Finance Corporation board sometime ago. Last year, managing the Reconstruction Finance Corporation's Business Loan Department as well as Electric Home and Farm Authority, Mr. Schram doubled the department's previous business.

Thus, when Mr. Jones was promoted to be Federal Loan Administrator, he needed no prompting to tell the President that Emil Schram was "the best man available" to succeed him at the Reconstruction Finance Corporation. His Reconstruction Finance Corporation regime will serve as an immensely interesting test of whether strictly businesslike methods and New Deal policies can be effectively combined.

PROHIBITION OF BLOCK BOOKING AND BLIND SELLING OF MOTION-PICTURE FILMS

The Senate resumed consideration of the bill (S. 280) to prohibit and to prevent the trade practices known as compulsory block booking and blind selling in the leasing of motion-picture films in interstate and foreign commerce.

The VICE PRESIDENT. The question is on the engrossment and third reading of the bill.

Mr. KING. Mr. President, I inquire to what bill does the Chair refer?

The VICE PRESIDENT. To Senate bill 280, known as the anti-block-booking and blind-selling bill.

Mr. KING. Mr. President, we are not ready for a vote now.

The VICE PRESIDENT. Does the Senator from Utah desire the floor on the bill?

Mr. KING. I should like to have the floor, but I promised to yield to the Senator from Louisiana for a conference report.

DISTRICT OF COLUMBIA TAXATION—CONFERENCE REPORT

Mr. OVERTON. Mr. President, I submit the conference report on House bill 6577, the District of Columbia tax bill, and ask unanimous consent that it be immediately considered.

The VICE PRESIDENT. The report will be read.

The Chief Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 6577) to provide revenue for the District of Columbia, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"TITLE I—FEDERAL PAYMENT

"For the fiscal year ending June 30, 1940, and for each fiscal year thereafter, there is hereby authorized to be appropriated, as the annual payment by the United States toward defraying the expenses of the Government of the District of Columbia, the sum of $6,000,000.

"TITLE II—INCOME TAX

"This title divided into sections and paragraphs according to the following table of contents, may be cited as the 'District of Columbia Income Tax Act':

"TABLE OF CONTENTS

"APPLICATION OF TITLE

"SECTION 1. The provisions of this title shall apply to the taxable year 1939 and succeeding taxable years, except that in the case of a taxable year beginning in 1938 and ending in 1939 the income taxable under this title shall be that fraction of the income for the entire fiscal year equal to the number of days remaining in the fiscal year after January 1, 1939, divided by three hundred and sixty-five: *Provided, however,* That if the taxpayer's records properly reflect the income for that part of the fiscal year falling in the calendar year 1939, then the portion of the fiscal year's income taxable hereunder shall be the portion received or accrued during the calendar year 1939.

"IMPOSITION OF TAX

"SEC. 2. (a) Tax on individuals: There is hereby levied for each taxable year upon the taxable income of every individual domiciled in the District of Columbia on the last day of the taxable year a tax at the following rates:

"One per centum on the first $5,000 of taxable income.

"One and one-half per centum on the next $5,000 of taxable income.

"Two per centum on the next $5,000 of taxable income.

"Two and one-half per centum on the next $5,000 of taxable income.

"Three per centum on the taxable income in excess of $20,000.

"(b) Tax on corporations: There is hereby levied for each taxable year upon the taxable income from District of Columbia sources of every corporation, whether domestic or foreign (except those organizations expressly exempt under paragraph (d) of this section), a tax at the rate of 5 per centum thereof.

"(c) Definition of 'taxable income': As used in this section, the term 'taxable income' means the amount of the net income in excess of the credits against net income provided in section 9 of this title.

"(d) Exemptions from tax: There shall be exempt from taxation under this title the following organizations: Corporations, including any community chest, fund, foundation, cemetery, association, teachers' retirement fund association, church, or club, organized and operated exclusively for religious, charitable, scientific, literary, educational, or social purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; and labor organizations, trade associations, boards of trade, chambers of commerce, citizens' associations or organizations, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual; banks, insurance companies, building and loan associations, and companies, incorporated or otherwise, which guarantee the fidelity of any individual or individuals, such as bonding companies, all of which pay taxes upon gross premiums or earnings under existing laws of the District of Columbia; voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if (1) no part of their net earnings inures (other than such payments) to the benefit of any private shareholder or individual, and (2) 85 per centum or more of the income consists of amounts collected from members for the sole purpose of making such payments and meeting expenses; and corporations organized under Act of Congress, if such corporations are instrumentalities of the United States.

"NET INCOME

"SEC. 3. Definition: The term 'net income' means the gross income of a taxpayer less the deductions allowed by this title.

"GROSS INCOME AND EXCLUSIONS THEREFROM

"SEC. 4. (a) Of individuals: The words "gross income", as used in this title, include gains, profits, and income derived from sal-

aries, wages, or compensation for personal services of whatever kind and in whatever form paid, including salaries, wages, and compensation paid by the United States to its officers and employees to the extent the same is not immune from taxation under the Constitution, or income derived from professions, vocations, trades, businesses, commerce, or sales or dealings in property, whether real or personal, growing out of the ownership, or use of, or interest in, such property; also from rent, royalities, interest, dividends, securities, or transactions of any business carried on for gain or profit, or gains or profits, and income derived from any source whatever.

"(b) Of corporations: In the case of any corporation, gross income includes only the gross income from sources within the District of Columbia. The proper apportionment and allocation of income with respect to sources of income within and without the District may be determined by processes or formulas of general apportionment under rules and regulations prescribed by the Commissioners.

"(c) Exclusions from gross income: The following items shall not be included in gross income and shall be exempt from taxation under this title:

"(1) Life insurance: Amounts received under a life-insurance contract paid by reason of the death of the insured, whether in a single sum or otherwise (but if such amounts are held by the insurer under an agreement to pay interest thereon, the interest payments shall be included in gross income).

"(2) Annuities, and so forth: Amounts received (other than amounts paid by reason of the death of the insured and interest payments on such amounts and other than amounts received as annuities) under a life-insurance or endowment contract, but if such amounts (when added to amounts received before the taxable year under such contract) exceed the aggregate premiums or consideration paid (whether or not paid during the taxable year) then the excess shall be included in gross income. Amounts received as annuity under an annuity or endowment contract shall be included in gross income; except that there shall be excluded from gross income the excess of the amount received in the taxable year over an amount equal to 3 per centum of the aggregate premiums or consideration paid for such annuity (whether or not paid during such year), until the aggregate amount excluded from gross income under this title in respect to such annuity equals the aggregate premiums or consideration paid for such annuity. In the case of a transfer for a valuable consideration, by assignment or otherwise, of a life-insurance, endowment, or annuity contract, or any interest therein, only the actual value of such consideration and the amount of the premiums and other sums subsequently paid by the transferee shall be exempt from taxation under paragraph (1) or this paragraph.

"(3) Gifts, bequests, and devises: The value of property acquired by gift, bequest, devise, or inheritance (but the income from such property shall be included in gross income).

"(4) Tax-free interest: Interest upon (A) the obligations of a State, Territory, or any political subdivision thereof, or the District of Columbia; or (B) obligations of a corporation organized under Act of Congress, if such corporation is an instrumentality of the United States; or (C) the obligations of the United States or its possessions

"(5) Compensation for injuries or sickness: Amounts received, through accident or health insurance or under workmen's compensation acts, as compensation for personal injuries or sickness, plus the amount of any damages received, whether by suit or agreement on account of such injuries or sickness.

"(6) Ministers: The rental value of a dwelling house and appurtenances thereof furnished to a minister of the gospel as part of his compensation.

"(7) Income exempt under treaty: Income of any kind to the extent required by any treaty obligation of the United States.

"(8) Dividends from China Trade Act corporations: In the case of a person, amounts distributed as dividends to or for his benefit by a corporation organized under the China Trade Act, 1922, if, at the time of such distribution, he is a resident of China, and the equitable right to the income of the shares of stock of the corporation is in good faith vested in him.

"(9) Income of foreign governments.

"DEDUCTIONS FROM GROSS INCOME

"SEC. 5. (a) Items of deduction: In computing net income there shall be allowed as deductions:

"(1) Expenses: All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered; traveling expenses (including the entire amount expended for meals and lodging) while away from home in the pursuit of a trade or business; and rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity.

"(2) Interest: All interest paid or accrued within the taxable year on indebtedness.

"(3) Taxes: Taxes paid or accrued within the taxable year, except—

"(A) income taxes;

"(B) estate, inheritance, legacy, succession, and gift taxes;

"(C) taxes assessed against local benefits of a kind tending to increase the value of the property assessed; but this paragraph shall not exclude the allowance as a deduction of so much of such taxes as is properly allocable to maintenance or interest charges; and

"(D) taxes paid to any State or Territory on property, business, or occupation the income from which is not taxable under this title.

"(4) Losses in trade or business: Losses sustained during the taxable year and not compensated for by insurance or otherwise, if incurred in trade or business, the income from which is subject to taxation under this title.

"(5) Losses in transactions for profit: Losses sustained during the taxable year and not compensated for by insurance or otherwise, if incurred in any transaction entered into for profit would be subject to taxation under this title, though not connected with the trade or business.

"(6) Intercompany dividends: In the case of a corporation, the amount received as dividends from a corporation which is subject to taxation under this title.

"(7) Bad debts: Debts ascertained to be worthless and charged off within the taxable year or, in the discretion of the assessor, a reasonable addition to a reserve for bad debts; and when satisfied that a debt is recoverable only in part, the assessor may allow such debt, in an amount not in excess of the part charged off within the taxable year, as a deduction.

"(8) Insurance premiums: All fire-, tornado-, and casualty-insurance premiums paid during the taxable year in connection with property held for investment or business.

"(9) Depreciation: A reasonable allowance for exhaustion, wear, and tear of property used in the trade or business, including a reasonable allowance for obsolescence; and including in the case of natural resources allowances for depletion as permitted by reasonable rules and regulations which the Commissioners are hereby authorized to promulgate.

"(10) Charitable contributions: Contributions or gifts actually paid within the taxable year to or for the use of any corporation, or trust, or community fund, or foundation, maintaining activities in the District of Columbia and organized and operated exclusively for religious, charitable, scientific, literary, military, or educational purposes, no part of the net income of which inures to the benefit of any private shareholder or individual: *Provided*, That such deductions shall be allowed only in an amount which in all of the above cases combined does not exceed 15 per centum of the taxpayer's net income as computed without the benefit of this subparagraph.

"(11) Wagering losses: Losses from wagering transactions shall be allowed only to the extent of the gains from such transactions.

"(b) Allocation of deductions: In the case of a taxpayer, other than an individual, the deductions allowed in this section shall be allowed only for and to the extent that they are connected with income arising from sources within the District and taxable under this title to a nonresident taxpayer; and the proper apportionment and allocation of the deductions with respect to sources of income within and without the District shall be determined by processes or formulas of general apportionment under rules and regulations to be prescribed by the Commissioners. The so-called charitable contribution deduction allowed by subparagraph (10) of paragraph (a) of this section shall be allowed whether or not connected with income from sources within the District.

"(c) Corporations and nonresident individuals to file return of total income: A corporation shall receive the benefits of the deductions allowed to it under this title only by filing or causing to be filed with the assessor a true and accurate return of its total income received from all sources, whether within or without the District.

"GAINS OR LOSSES FROM SALE OF ASSETS

"SEC. 6. (a) Gain or loss in capital assets not recognized: No gain or loss from the sale or exchange of a capital asset shall be recognized in the computation of net income under this title. For the purpose of this title, 'capital assets' means property held by the taxpayer for more than two years (whether or not connected with his trade or business) but does not include stock in trade of the taxpayer or other property of a kind which would properly be included in the inventory of a taxpayer if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business.

"(b) Gain or loss in assets other than capital: Gains or losses from the sale or exchange of property other than a capital asset shall be treated in the same manner as other income or deductible losses, and the basis for computing such gain or loss shall be the cost of such property or, if acquired by some means other than purchase, the fair market value thereof at the date of acquisition.

"EXCHANGES

"SEC. 7. Where property is exchanged for other property, the property received in exchange for the purpose of determining the gain or loss shall be treated as the equivalent of cash to the amount of its fair market value; but when in connection with the reorganization, merger, or consolidation of a corporation a taxpayer receives, in place of stock or securities owned by him, new stock or securities or the reorganized, merged, or consolidated corporation, no gain or loss shall be deemed to occur from the exchange until the new stock or securities are sold or realized upon and the gain or loss is definitely ascertained, until which time the new stock or securities received shall be treated as taking the place of the stock and securities exchanged; provided such reorganization, merger, or consolidation is a 'reorganization' within the meaning of the term 'reorganization' as defined in section 112 (g) of the Federal Revenue Act of 1936.

"DEDUCTIONS NOT ALLOWED

"SEC. 8. (a) General rule: In computing net income no deductions shall be allowed in any case in respect to—

"(1) personal, living, or family expenses;

"(2) any amount paid out for new buildings or for permanent improvements or betterments, made to increase the value of any property or estate;

"(3) any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made; and

"(4) premiums paid on any life-insurance policy covering the life of any officer or employee or of any person financially interested in any trade or business carried on by the taxpayer when the taxpayer is directly or indirectly a beneficiary under such policy.

"(b) Holders of life or terminable interest: Amounts paid under the laws of any State, Territory, District of Columbia, possession of the United States, or foreign country as income to the holder of a life or terminable interest acquired by gift, bequest, or inheritance shall not be reduced or diminished by any deduction for shrinkage (by whatever name called) in the value of such interest due to the lapse of time, nor by any deduction allowed by this Act (except the deductions provided for in subsections (1) and (m) of section 23 of the Federal Revenue Act of 1926 as amended) for the purpose of computing the net income of an estate or trust but not allowed under the laws of such State, Territory, District of Columbia, possession of the United States, or foreign country for the purpose of computing the income to which such holder is entitled.

"PERSONAL EXEMPTIONS AND CREDIT FOR DEPENDENTS

"SEC. 9. (a) Credits: There shall be allowed to individuals the following credits against net income:

"(1) Personal exemption: In the case of a single person or married person not living with husband or wife, a personal exemption of $1,000; in the case of the head of a family or a married person living with husband or wife, a personal exemption of $2,500; a husband and wife living together shall receive but one personal exemption, the amount of such personal exemption shall be $2,500. If such husband and wife make separate returns the personal exemption may be taken by either or divided between them.

"(2) Credit for dependents: $400 for each person (other than husband or wife) dependent upon and receiving his chief support from the taxpayer if such dependent person is under 18 years of age or is incapable of self-support because mentally or physically defective.

"(b) Change of status: If the status of the taxpayer, insofar as it affects personal exemption or credit for dependents, changes during the taxable year, the personal exemption and credit shall be apportioned under rules and regulations prescribed by the Commissioners, in accordance with the number of months before and after such change. For the purpose of such apportionment a fractional portion of a month shall be disregarded unless it amounts to more than half a month in which case it shall be considered as a month.

"(c) In return for fractional part of year: In the case of a return made for a fractional part of a year, the personal exemption and credit for dependents shall be reduced respectively to amounts which bear the same ratio to the full credits provided as the number of months in the period for which the return is made bears to 12 months.

"ACCOUNTING PERIODS

"SEC. 10. The net income shall be computed upon the basis of the taxpayer's annual accounting period (fiscal year or calendar year, as the case may be) in accordance with the method of accounting regularly employed in keeping the books of such taxpayer; but if no such method of accounting has been so employed, or if the method employed does not clearly reflect the income, the computation shall be made in accordance with such method as in the opinion of the assessor does clearly reflect the income. If the taxpayer's annual accounting period is other than a fiscal year as defined in section 43 or if the taxpayer has no annual accounting period or does not keep books, the net income shall be computed on the basis of the calendar year. If the taxpayer makes a Federal income-tax return, his income shall be computed, for the purposes of this title, on the basis of the same calendar or fiscal year as in such Federal income-tax return.

"PERIOD IN WHICH ITEMS OF GROSS INCOME INCLUDED

"SEC. 11. The amount of all items of gross income shall be included in the gross income for the taxable year in which received by the taxpayer unless, under methods of accounting permitted under section 10, any such amounts are to be properly accounted for as of a different period. In the case of the death of a taxpayer there shall be included, in computing net income for the taxable period in which falls the date of his death, amounts accrued up to the date of his death if not otherwise properly includible in respect to such period or a prior period.

"PERIOD FOR WHICH DEDUCTIONS AND CREDITS TAKEN

"SEC. 12. The deductions and credits provided for in this title shall be taken for the taxable year in which 'paid or accrued' or 'paid or incurred', dependent upon the method of accounting upon the basis of which the net income is computed unless, in order to clearly reflect the income, the deductions or credits should be taken as of a different period. In the case of the death of a taxpayer there shall be allowed as deductions and credits for the taxable period in which falls the date of his death, amounts accrued up to the date of his death if not otherwise properly allowable in respect to such period or a prior period.

"INSTALLMENT BASIS

"SEC. 13. (a) Dealers in personal property: Under regulations prescribed by the Commissioners, a person who regularly sells or otherwise disposes of personal property on the installment plan may return as income therefrom in any taxable year that proportion of the installment payments actually received in that year which the gross profit realized or to be realized when payment is completed bears to the total contract price.

"(b) Sales of realty and casual sales of personalty: In the case of (1) a casual sale or other casual disposition of personal property (other than property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year) for a price exceeding $1,000, or (2) of a sale or other disposition of real property, if in either case the initial payments do not exceed 30 per centum of the selling price, the income may, under regulations prescribed by the Commissioners, be returned on the basis and in the manner above prescribed in this section. As used in this section the term 'initial payments' means the payments received in cash or property other than evidences of indebtedness of the purchaser during the taxable period in which the sale or other disposition is made.

"(c) Change from accrual to installment basis: If a taxpayer entitled to the benefits of subsection (a) elects for any taxable year to report his net income on the installment basis, then in computing his income for the year of change or any subsequent year, amounts actually received during any such year on account of sales or other disposition of property made in any prior year shall not be excluded.

"(d) Gain or loss upon disposition of installment obligations: If an installmnt obligation is satisfied at other than its face value or distributed, transmitted, sold, or otherwise disposed of, gain or loss shall result in the extent of the difference between the basis of the obligation and (1) in the case of satisfaction of other than face value or a sale or exchange—the amount realized, or (2) in case of a distribution, transmission, or disposition otherwise than by sale or exchange—the fair market value of the obligation at the time of such distribution, transmission, or disposition. Any gain or loss so resulting shall be considered as resulting from the sale or exchange of the property in respect to which the installment obligation was received. The basis of the obligation shall be the excess of the face value of the obligation over an amount equal to the income which would be returnable were the obligation satisfied in full. This paragraph shall not apply to the transmission at death of installment obligations if there is filed with the assessor, at such time as he may by regulation prescribe, a bond in such amount and with such sureties as he may deem necessary, conditioned upon the return as income, by the person receiving any payment in such obligations, of the same proportion of such payment as would be returnable as income by the decedent if he had lived and had received such payment.

"INVENTORIES

"SEC. 14. Whenever in the opinion of the assessor the use of inventories is necessary in order clearly to determine the income of any taxpayer, inventories shall be taken by such taxpayer upon such basis as the assessor may prescribe as conforming as nearly as may be to the best accounting practice in the trade or business and as most clearly reflecting the income.

"INDIVIDUAL RETURNS

"SEC. 15. (a) Requirement: The following individuals shall each make under oath a return stating specifically the items of his gross income and the deductions and credits allowed under this title and such other information for the purpose of carrying out the provisions of this title as the Commissioners may by regulations prescribe:

"(1) Every individual having a net income for the taxable year of $1,000 or over, if single, or if married and not living with husband or wife;

"(2) Every individual having a net income for the taxable year of $2,500 or over, if married and living with husband or wife; and

"(3) Every individual having a gross income for the taxable year of $5,000 or over, regardless of the amount of his net income.

"(b) Husband and wife: If a husband and wife living together have an aggregate net income for the taxable year of $2,500 or over, or an aggregate gross income for such year of $5,000 or over—

"(1) Each shall make a return, or

"(2) The income of each shall be included in a single joint return, in which case the tax shall be computed on the aggregate income.

"(c) Persons under disability: If the taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such taxpayer.

"(d) Fiduciaries: For returns to be made by fiduciaries, see section 23.

"CORPORATION RETURNS

"SEC. 16. Every corporation not expressly exempt from the tax imposed by this title shall make a return and pay a filing fee of $25 which shall be credited against the tax. Such returns shall state specifically the items of its gross income and the deductions and credits allowed by this title, and such other information for the purpose of carrying out the provisions of this title as the Commissioners may by regulations prescribe. The return shall be sworn to by the president, vice president, or other principal officer, and by the treasurer, assistant treasurer, or chief accounting offi-

cer. In cases where receivers, trustees in bankruptcy, or assignees are operating the property or business of corporations, such receivers, trustees, or assignees shall make returns for such corporations in the same manner and form as corporations are required to make returns. Any tax due on the basis of such returns made by receivers, trustees, or assignees shall be collected in the same manner as if collected from the corporations of whose business or property they have custody and control.

"TAXPAYER TO MAKE RETURN WHETHER RETURN FORM IS SENT OR NOT

"SEC. 17. Blank forms of returns for income shall be supplied by the assessor. It shall be the duty of the assessor to obtain an income-tax return from every taxpayer who is liable under the law to file such return; but this duty shall in no manner diminish the obligation of the taxpayer to file a return without being called upon to do so.

"TIME AND PLACE FOR FILING RETURNS

"SEC. 18. All returns of income for the preceding taxable year shall be made to the assessor on or before the 15th day of March in each year, except that such returns, if made on the basis of a fiscal year, shall be made on or before the 15th day of the third month following the close of such fiscal year, unless such fiscal year has expired in the calendar year 1939 prior to the approval of this Act, in which event returns shall be made on or before the 15th day of the third month following the approval of this Act.

"EXTENSION OF TIME FOR FILING RETURNS

"SEC. 19. The assessor may grant a reasonable extension of time for filing income returns whenever in his judgment good cause exists and shall keep a record of every such extension. Except in case of a taxpayer who is abroad, no such extension shall be granted for more than six months, and in no case for more than one year. In the event time for filing a return is deferred, the taxpayer is hereby required to pay, as a part of the tax, an amount equal to 6 per centum per annum on the tax ultimately assessed from the time the return was due until it is actually filed in the office of the assessor.

"ALLOCATION OF INCOME AND DEDUCTIONS

"SEC. 20. In any of two or more organizations, trades, or businesses (whether or not incorporated, whether or not organized in the District of Columbia, and whether or not affiliated) owned or controlled directly or indirectly by the same interests, the assessor is authorized to distribute, apportion, or allocate gross income or deductions between or among such organizations, trades, or businesses, if he determines that such distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any of such organizations, trades, or businesses. The provisions of this section shall apply, but shall not be limited in application to any case of a common carrier by railroad subject to the Interstate Commerce Act and jointly owned or controlled directly or indirectly by two or more common carriers by railroad subject to said Act.

"PUBLICITY OF RETURNS

"SEC. 21. (a) Secrecy of returns: Except to any official of the District, having a right thereto in his official capacity, it shall be unlawful for any officer or employee of the District to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return under this title.

"(b) When copies may be furnished: Neither the original nor a copy of the return desired for use in litigations in court shall be furnished where the District of Columbia is not interested in the result whether or not the request is contained in an order of the court: *Provided*, That nothing herein shall be construed to prevent the furnishing to a taxpayer of a copy of his return upon the payment of a fee of $1.

"(c) Reciprocal exchange of information with States: Notwithstanding the provisions of this section, the assessor may permit the proper officer of any State imposing an income tax or his authorized representative to inspect income-tax returns, filed with the assessor or may furnish to such officer or representative a copy of any income-tax return provided such State grants substantially similar privileges to the assessor or his representative or to the proper officer of the District charged with the administration of this title.

"(d) Publication of statistics: Nothing herein shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports and the items thereof, or of the publication of delinquent lists showing the names of taxpayers who have failed to pay their taxes at the time and in the manner provided by law, together with any relevant information which in the opinion of the assessor may assist in the collection of such delinquent taxes.

"(e) Penalties for violation of this section: Any offense against the provisions of this section shall be a misdemeanor and shall be punishable by a fine not exceeding $1,000 or imprisonment for six months, or both, in the discretion of the court.

"RETURNS TO BE PRESERVED

"SEC. 22. Reports and returns received by the assessor under the provisions of this title shall be preserved for six years and thereafter until the assessor orders them to be destroyed.

"FIDUCIARY RETURNS

"SEC. 23. (a) Requirement of return: Every fiduciary (except a receiver appointed by authority of law in possession of part only of the property of an individual) shall make under oath a return for any of the following individuals, estates, or trusts for which he acts, stating specifically the items of gross income thereof and the deductions and credits allowed under this title and such other information for the purpose of carrying out the provisions of this title as the Commissioners may by regulations prescribe:

"(1) Every individual having a net income for the taxable year of $1,000 or over, if single, or if married and not living with husband and wife;

"(2) Every individual having a net income for the taxable year of $2,500 or over, if married and living with husband or wife;

"(3) Every individual having a gross income for the taxable year of $5,000 or over, regardless of the amount of his net income;

"(4) Every estate or trust the net income of which for the taxable year is $1,000 or over;

"(5) Every estate or trust the gross income of which for the taxable year is $5,000 or over, regardless of the amount of the net income.

"(b) Joint fiduciaries: Under such regulations as the Commissioners may prescribe, a return by one of two or more joint fiduciaries and filed in the office of the assessor shall be sufficient compliance with the above requirement. Such fiduciary shall make oath (1) that he has sufficient knowledge of the affairs of the individual, estate, or trust for which the return is made, to enable him to make the return, and (2) that the return is, to the best of his knowledge and belief, true and correct.

"(c) Law applicable to fiduciaries: Any fiduciary required to make a return under this title shall be subject to all the provisions of law which apply to individuals.

"ESTATES AND TRUSTS

"SEC. 24. (a) Application of tax: The taxes imposed by this title upon individual shall apply to the income of estates or of any kind of property held in trust, including—

"(1) income accumulated in trust for the benefit of unborn or unascertained person or persons with contingent interests, and income accumulated or held for future distribution under the terms of the will or trust;

"(2) income which is to be distributed currently by the fiduciary to the beneficiaries, and income collected by a guardian of an infant which is to be held or distributed as the court may direct;

"(3) income received by estates of deceased persons during the period of administration or settlement of the estate; and

"(4) income which, in the discretion of the fiduciary, may be either distributed to the beneficiaries or accumulated.

"(b) Computation of tax: The tax shall be computed upon the net income of the estate or trust, and shall be paid by the fiduciary, except as provided in paragraph (e) of this section (relating to revocable trusts) and paragraph (f) of this section (relating to income for benefit of the grantor).

"(c) Net income: The net income of the estate or trust shall be computed in the same manner and on the same basis as in the case of an individual, except that—

"(1) there shall be allowed as an additional deduction in computing the net income of the estate or trust the amount of the income of the estate or trust for its taxable year which is to be distributed currently by the fiduciary to the beneficiaries, and the amount of the income collected by a guardian of an infant which is to be held or distributed as the court may direct, but the amount so allowed as a deduction shall be included in computing the net income of the beneficiaries whether distributed to them or not. Any amount allowed as a deduction under this paragraph shall not be allowed as a deduction under subsection (2) of this section in the same or any succeeding taxable year;

"(2) in the case of income received by estates of deceased persons during the period of administration or settlement of the estate, and in the case of income which, in the discretion of the fiduciary, may be either distributed to the beneficiary or accumulated, there shall be allowed as an additional deduction in computing the net income of the estate or trust the amount of the income of the estate or trust for its taxable year, which is properly paid or credited during such year to any legatee, heir, or beneficiary, but the amount so allowed as a deduction shall be included in computing the net income of the legatee, heir, or beneficiary;

"(3) there shall be allowed as a deduction (in lieu of the deductions for charitable contributions authorized by section 5 (a) (10)) any part of the gross income, without limitation, which pursuant to the terms of the will or deed creating a trust, is during the taxable year paid or permanently set aside for the purposes and in the manner provided in section 5 (a) (10) or is to be used exclusively for the purposes enumerated in section 5 (a) (10).

"(d) Different taxable year: If the taxable year of a beneficiary is different from that of the estate or trust, the amount which he is required, under subparagraph (1) of paragraph (c) of this section, to include in computing his net income, shall be based upon the income of the estate or trust for any taxable year of the estate or trust ending within or with his taxable year.

"(e) Revocable trusts: Where at any time the power to revest in the grantor title to any part of the corpus of the trust is vested—

"(1) in the grantor, either alone or in conjunction with any person not having a substantial adverse interest in the disposition of such part of the corpus or the income therefrom; or

"(2) in any person not having a substantial adverse interest in the disposition of such part of the corpus or the income therefrom,

then the income of such part of the trust shall be included in computing the net income of the grantor.

"(f) Income for benefit of grantor: Where any part of the income of a trust—

"(1) is, or in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income may be, held or accumulated for future distribution to the grantor; or

"(2) may, in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income, be distributed to the grantor; or

"(3) is, or in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income may be applied to the payment of premiums upon policies of insurance on the life of the grantor (except policies of insurance irrevocably payable for the purposes and in the manner specified in section 5 (a) (10), relating to the so-called 'charitable contribution' deduction);

"then such part of the income of the trust shall be included in computing the net income of the grantor.

"(g) Definition of 'in discretion of grantor': As used in this section, the term 'in the discretion of the grantor' means 'in the discretion of the grantor, either alone or in conjunction with any person not having a substantial adverse interest in the disposition of the part of the income in question.'

"(h) Income from intangible personal property held by trust: Income from intangible personal property held by any trust company or by any national bank situated in the District (with or without an individual trustee, resident or nonresident) in trust to pay the income for the time being to, or to accumulate or apply such income for the benefit of any nonresident of the District, shall not be taxable hereunder if—

"(1) such beneficial owner or cestui que trust was at the time of the creation of the trust a nonresident of the District; and

"(2) the testator, settlor, or grantor was also at the time of the creation of the trust a nonresident of the District.

"PARTNERSHIPS

"SEC. 25. (a) Partners only taxable: Individuals carrying on business in partnership shall be liable for income tax only in their individual capacity, and no income tax shall be assessable hereunder upon the net income of any partnership. All such income shall be assessable to the individual partners; it shall be reported by such partners as individuals upon their respective individual income returns; and it shall be taxed to them as individuals along with their other income at the rate and in the manner herein provided for the taxation of income received by individuals. There shall be included in computing the net income of each partner his distributive share, whether distributed or not, of the net income of the partnership for the taxable year; or if his net income for such taxable year is computed upon the basis of a period different from that upon the basis of which the net income of the partnership is computed, then his distributive share of the net income of the partnership for any accounting period of the partnership ending within the taxable year upon the basis of which the partner's net income is computed.

"(b) Partnership return: Every partnership shall make a return for each taxable year stating specifically the items of its gross income and the deductions allowed by this title, and shall include in the return the names and the addresses of the individuals who would be entitled to share in the net income if distributed, and the amount of the distributive share of each individual. The return shall be sworn to by any one of the partners.

"PAYMENT OF TAX

"SEC. 26. (a) Time of payment: The total amount of tax imposed by this title shall be paid on the 15th day of March following the close of the calendar year, or, if the return shall be made on the basis of a fiscal year, then on the 15th day of the third month following the close of the fiscal year, except a fiscal year which expired in the calendar year 1939 prior to the approval of this act, in which event the tax shall be paid on the 15th day of the third month following the approval of this act.

"(b) Extension of time for payments: At the request of the taxpayer the assessor may extend the time for payment by the taxpayer of the amount determined as the tax, for a period not to exceed six months from the date prescribed for the payment of the tax or an installment thereof. In such case the amount in respect to which the extension is granted shall be paid on or before the date of the expiration of the period of the extension.

"(c) Voluntary advance payment: A tax imposed by this title, or any installment thereof, may be paid, at the election of the taxpayer, prior to the date prescribed for its payment.

"(d) Fractional part of cent: In the payment of any tax under this title a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

"(e) Payment to collector and receipts: The tax provided under this title shall be collected by the collector and the revenues derived therefrom shall be turned over to the Treasury of the United States for the credit of the District in the same manner as other revenues are turned over to the United States Treasury for the credit to the District. The collector shall, upon written request, give to the person making payment of any income tax a full written or printed receipt therefor.

"TAX A PERSONAL DEBT

"SEC. 27. Every tax imposed by this title, and all increases, interest, and penalties thereof, shall become, from the time it is due and payable, a personal debt, from the person or persons liable to pay the same to the District, and shall be entitled to the same priority as other District taxes; and the taxes levied hereunder and the interest and penalties thereon shall be collected by the collector of taxes in the manner provided by law for the collection of taxes due the District on personal property in force at the time of such collection.

"INFORMATION FROM THE BUREAU OF INTERNAL REVENUE

"SEC. 28. The Bureau of Internal Revenue of the Treasury Department of the United States is authorized and required to supply such information as may be requested by the Commissioners relative to any person subject to the taxes imposed by this title.

"ASSESSOR TO ADMINISTER

"SEC. 29. (a) Duties of assessor: The assessor is hereby required to administer the provisions of this title. The assessor shall prescribe forms identical with those utilized by the Federal Government, except to the extent required by differences between this title and its application and the Federal Act and its application. He shall apply as far as practicable the administrative and judicial interpretations of the Federal income-tax law so that computations of income for purposes of this title shall be, as nearly as practicable, identical with the calculations required for Federal income-tax purposes. As soon as practicable after the return is filed the assessor shall examine it and shall determine the correct amount of the tax.

"(b) Statements and special returns: Every taxpayer liable to any tax imposed by this title shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations as the Commissioners from time to time may prescribe. Whenever the assessor judges it necessary he may require any taxpayer, by notice served upon him, to make a return, render under oath such statements, or keep such records as he deems sufficient to show whether or not such taxpayer is liable to tax under this title and the extent of such liability.

"(c) Examination of books and witnesses: The assessor, for the purpose of ascertaining the correctness of any return filed hereunder, or for the purpose of making an estimate of the taxable income of any taxpayer, is authorized to examine any books, papers, records, or memoranda of any person bearing upon the matters required to be included in the return and may summon any person to appear and produce books, records, papers, or memoranda bearing upon the matters required to be included in the return, and to give testimony or answer interrogatories under oath respecting the same, and the assessor shall have power to administer oaths to such person or persons. Such summons may be served by any members of the Metropolitan Police Department. If any person having been personally summoned shall neglect or refuse to obey the summons issued as herein provided, then, and in that event, the assessor may report that fact to the District Court of the United States for the District of Columbia, or one of the justices thereof, and said court or any justice thereof hereby is empowered to compel obedience to such summons to the same extent as witnesses may be compelled to obey the subpenas of that court. Any person in custody or control of any books, papers, records, or memoranda bearing upon the matters required to be included in such returns, who shall refuse to permit the examination by the assessor or any person designated by him of any such books, papers, records, or memoranda, or who shall obstruct or hinder the assessor or any person designated by him in the examination of any books, papers, records, or memoranda, shall upon conviction thereof be fined not more than $300. All prosecutions under this section shall be brought in the police court of the District of Columbia on information by the corporation counsel of the District of Columbia in the name of the District of Columbia.

"(d) Return by assessor: If any person fails to make and file a return at the time prescribed by law or by regulations made under authority of law, or makes, willfully or otherwise, a false or fraudulent return, the assessor shall make the return from his own knowledge and from such information as he can obtain through testimony or otherwise. Any return so made and subscribed by the assessor shall be prima facie good and sufficient for all legal purposes.

"ASSESSMENT AND COLLECTION OF DEFICIENCIES

"SEC. 30. Definition of 'deficiency': As used in this title in respect of a tax imposed by this title 'deficiency' means—

"(1) the amount by which the tax imposed by this title exceeds the amount shown as the tax by the taxpayer upon his return; but the amount so shown on the return shall first be increased by the amounts previously assessed (or collected without assessment) as a deficiency, and decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax; or

"(2) if no amount is shown as the tax by the taxpayer upon his return, or if no return is made by the taxpayer, then the amount by which the tax exceeds the amounts previously assessed (or collected without assessment) as a deficiency; but such amounts previously assessed, or collected without assessment, shall first be decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax.

"DETERMINATION AND ASSESSMENT OF DEFICIENCY

"SEC. 31. If a deficiency in tax is determined by the assessor, the taxpayer shall be notified thereof and given a period of not less than thirty days, after such notice is sent by registered mail, in which to file a protest and show cause or reason why the deficiency should not be paid. Opportunity for hearing shall be granted by the assessor, and a final decision thereon shall be made as quickly as practicable. Any deficiency in tax then determined to be due shall be assessed and paid, together with any addition to the tax applicable thereto, within ten days after notice and demand by the collector. The taxpayer may appeal from such assessment to

the Board of Tax Appeals for the District of Columbia in the same manner and to the same extent as set forth in sections 3, 4, 7, 8, 9, 10, 11, and 12 of title VI of an Act to amend the District of Columbia Revenue Act of 1937, and for other purposes, approved May 16, 1938.

"JEOPARDY ASSESSMENT

"SEC. 32. (a) Authority for making: If the assessor believes that the collection of any tax imposed by this title will be jeopardized by delay, he shall, whether or not the time otherwise prescribed by law for making return and paying such tax has expired, immediately assess such tax (together with all interest and penalties, the assessment of which is provided for by law). Such tax, penalties, and interest shall thereupon become immediately due and payable, and immediate notice and demand shall be made by the collector for the payment thereof. Upon failure or refusal to pay such tax, penalty, and interest, collection thereof by distraint shall be lawful.

"(b) Bond to stay collection: The collection of the whole or any part of the amount of such assessment may be stayed by filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties as the collector deems necessary, conditioned upon the payment of the amount, the collection of which is stayed, at the time at which, but for this section, such amount would be due.

"PERIOD OF LIMITATION UPON ASSESSMENT AND COLLECTION

"SEC. 33. (a) General rule: Except as provided in paragraph (b) of this section—

"(1) The amount of income taxes imposed by this title shall be assessed within two years after the return is filed, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period.

"(2) In the case of income received during the lifetime of a decedent, or by his estate during the period of administration, or by a corporation, the tax shall be assessed, and any proceeding in court without assessment for the collection of such tax shall be begun, within twelve months after written request therefor (filed after the return is made) by the executor, administrator, or other fiduciary representing the estate of such decedent, or by the corporation, but not after the expiration of two years after the return is filed. This subparagraph shall not apply in the case of a corporation unless—

"(A) such written request notifies the assessor that the corporation contemplates dissolution at or before the expiration of such twelve-month period; and

"(B) the dissolution is in good faith begun before the expiration of such twelve-month period; and

"(C) the dissolution is completed.

"(3) If the taxpayer omits from gross income an amount properly includible therein which is in excess of 25 per centum of the amount of gross income stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within five years after the return was filed.

"(4) For the purposes of subparagraphs (1), (2), and (3), a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

"(b) False return: In the case of a false or fraudulent return with intent to evade tax or of a failure to file a return the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

"(c) Waiver: Where before the expiration of the time prescribed in paragraph (a) for the assessment of the tax, both the assessor and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

"(d) Collection after assessment: Where the assessment of any income tax imposed by this title has been made within the period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court, but only if begun (A) within three years after the assessment of the tax or (B) prior to the expiration of any period for collection agreed upon in writing by the assessor and the taxpayer before the expiration of such three-year period. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

"REFUNDS

"SEC. 34. Except as otherwise provided in section 31 of this title, where there has been an overpayment of any tax imposed by this title, the amount of such overpayment shall be refunded to the taxpayer. No such refund shall be allowed after two years from the time the tax is paid unless before the expiration of such period a claim therefor is filed by the taxpayer. The amount of the refund shall not exceed the portion of the tax paid during the two years immediately preceding the filing of the claim, or, if no claim was filed, then during the two years immediately preceding the allowance of the refund. Every claim for refund must be in writing, under oath; must state the specific grounds upon which the claim is founded, and must be filed with the assessor. If the assessor disallows any part of a claim for refund, he shall send to the taxpayer by registered mail a notice of the part of the claim so disallowed. Within ninety days after the mailing of such notice, the taxpayer may file an appeal with the Board of Tax Appeals for the District of Columbia in the same manner and to the same extent as set forth in sections 3, 4, 7, 8, 9, 10, 11, and 12 of title IX of an Act to amend the District of Columbia Revenue Act of 1937, and for other purposes, approved May 16, 1938. The remedy provided to the taxpayer under this section shall not be deemed to take away from the taxpayer any remedy which he might have under any other provision of law; but no suit by the taxpayer for the recovery of any part of such tax shall be instituted in any court if the taxpayer has elected to file an appeal in accordance with this section.

"CLOSING AGREEMENTS

"SEC. 35. The assessor is authorized to enter into an agreement with any person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any income tax for any period ending prior to the date of the agreement. If such agreement is approved by the Commissioners within such time as may be stated in such agreement, or later agreed to, such agreement shall be final and conclusive and except upon a showing of fraud or malfeasance, or misrepresentation of a material fact—the case shall not be reopened as to the matters agreed upon or the agreement modified; and in any suit or proceeding relating to the tax liability of the taxpayer such agreement shall not be annulled, modified, set aside, or disregarded.

"COMPROMISES

"SEC. 36. (a) Authority to make: Whenever in the opinion of the Commissioners there shall arise with respect of any tax imposed under this title any doubt as to the liability of the taxpayer or the collectibility of the tax for any reason whatsoever the Commissioners may compromise such tax.

"(b) Concealment of assets: Any person who, in connection with any compromise under this section or offer of such compromise or in connection with any closing agreement under this title or offer to enter into any such agreement, willfully (1) conceals from any officer or employee of the District of Columbia any property belonging to the estate of the taxpayer or other person liable with respect of the tax, or (2) receives, destroys, mutilates, or falsifies any book, document, or record or makes under oath any false statement relating to the estate or the financial condition of the taxpayer or to the person liable in respect of the tax, shall, upon conviction thereof, be fined not more than $5,000 or imprisoned for not more than one year, or both.

"(c) Of penalties: The Commissioners shall have the power for cause shown to compromise any penalty arising under this title.

"FAILURE TO FILE RETURN

"SEC. 37. In case of any failure to make and file a return required by this title, within the time prescribed by law or prescribed by the Commissioners in pursuance of law, 25 per centum of the tax shall be added to the tax, except that when a return is filed after such time and it is shown that the failure to file it was due to reasonable cause and not due to willful neglect, no such addition shall be made to the tax. The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, in which case the amount so added shall be collected in the same manner as the tax.

"INTEREST ON DEFICIENCIES

"SEC. 38. Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the collector, and shall be collected as a part of the tax, at the rate of 1 per centum per month from the date prescribed for the payment of the tax (or, if the tax is paid in installments, from the date prescribed for the payment of the first installment) to the date the deficiency is assessed.

"ADDITIONS TO THE TAX IN CASE OF DEFICIENCY

"SEC. 39. (a) Negligence: If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, 5 per centum of the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected, and paid in the same manner as if it were a deficiency.

"(b) Fraud: If any part of any deficiency is due to fraud with intent to evade tax, then 50 per centum of the total amount of the deficiency (in addition to such deficiency) shall be so assessed, collected, and paid.

"ADDITIONS TO THE TAX IN CASE OF NONPAYMENT

"SEC. 40. (a) Tax shown on return:

"(1) General rule: Where the amount determined by the taxpayer as the tax imposed by this title, or any installment thereof, or any part of such amount or installment, is not paid on or before the date prescribed for its payment, there shall be collected as a part of the tax, interest upon such unpaid amount at the rate of 1 per centum a month from the date prescribed for its payment until it is paid.

"(2) If extension granted: Where an extension of time for payment of the amount so determined as the tax by the taxpayer, or any installment thereof, has been granted, and the amount the time for payment of which has been extended, and the interest thereon determined under section 41 is not paid in full prior to the expiration of the period of the extension, then, in lieu of the interest provided for in subparagraph (1) of this paragraph, interest at the rate of 1 per centum a month shall be collected on such unpaid amount from the date of the expiration of the period of the extension until it is paid.

"(b) Deficiency: Where a deficiency, or any interest or additional amounts assessed in connection therewith under section 38, or under section 39, or any addition to the tax in case of delinquency

provided for in section 37 is not paid in full within ten days from the date of notice and demand from the collector, there shall be collected, as part of the tax, interest upon the unpaid amount at the rate of 1 per centum a month from the date of such notice and demand until it is paid.

"(c) Fiduciaries: For any period an estate is held by a fiduciary appointed by order of any court of competent jurisdiction or by will, there shall be collected interest at the rate of 1 per centum per month in lieu of the interest provided in subparagraphs (a) and (b) of this section.

"TIME EXTENDED FOR PAYMENT OF TAX SHOWN ON RETURN

"SEC. 41. If the time for payment of the amount determined as the tax by the taxpayer, or any installment thereof, is extended under the authority of section 26 (c), there shall be collected, as a part of such amount, interest thereon at the rate of 1 per centum per month from the date when such payment should have been made if no extension had been granted, until the expiration of the period of the extension.

"PENALTIES

"SEC. 42. (a) Negligence: Any person required under this title to pay or collect any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply information, who fails to pay or collect such tax, to make such return, to keep such records, or supply such information, at the time or times required by law or regulations shall, upon conviction thereof (in addition to other penalties provided by law), be fined not more than $300 for each and every such failure, and each and every day that such failure continues shall constitute a separate and distinct offense. All prosecutions under this paragraph shall be brought in the police court of the District of Columbia on information by the corporation counsel or his assistants in the name of the District of Columbia.

"(b) Willful violation: Any person required under this title to pay or collect any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of this title, who willfully refuses to pay or collect such tax, to make such returns, to keep such records, or to supply such information, or who willfully attempts in any manner to defeat or evade the tax imposed by this title, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and shall be fined not more than $10,000 or imprisoned for not more than one year, or both, together with costs of prosecution.

"(c) Definition of 'person': The term 'person' as used in this section includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under duty to perform the act in respect to which the violation occurs.

"DEFINITIONS

"SEC. 43. For the purpose of this title and unless otherwise required by the context—

"(1) The word 'person' means an individual, a trust or estate, a partnership, or a corporation.

"(2) The word 'taxpayer' means any person subject to a tax imposed by this title.

"(3) The word 'partnership' includes a syndicate, group, pool, joint adventure, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this title, a trust or estate or a corporation; and the word 'partner' includes a member in such a syndicate, group, pool, joint adventure, or organization.

"(4) The word 'corporation' includes associations, joint-stock companies, and insurance companies.

"(5) The word 'domestic' when applied to a corporation other than an association, means created under the law of United States applicable to the District of Columbia; and when applied to an association or partnership means having the principal office or place of business within the District of Columbia.

"(6) The word 'foreign' when applied to a corporation or partnership means a corporation or partnership which is not domestic.

"(7) The word 'fiduciary' means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

"(8) The word 'individual' means all natural persons, whether married or unmarried; and also all trusts, estates, and fiduciaries acting for other persons; it does not include corporations or partnerships acting for or in their own behalf.

"(9) The words 'taxable year' mean the calendar year or the fiscal year ending during such calendar year upon the basis of which the net income is computed under this title. The term 'taxable year' includes, in the case of a return made for a fractional part of a year under the provisions of this title, the period for which such return is made.

"(10) The words 'fiscal year' mean an accounting period of 12 months and ending on the last day of any month other than December.

"(11) The words 'paid or incurred' and 'paid or accrued' shall be construed according to the method of accounting upon the basis of which the net income is computed under this title.

"(12) The words 'trade or business' include the engaging in or carrying on of any trade, business, profession, vocation or calling, or commercial activity in the District of Columbia; and include the performance of the functions of a public office.

"(13) The word 'stock' includes a share in an association, joint-stock company, or insurance company.

"(14) The word 'shareholder' includes a member in an association, joint-stock company, or insurance company.

"(15) The words 'United States' when used in a geographical sense include only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

"(16) The word 'dividend' means any distribution made by a corporation out of its earnings or profits to its stockholders or members whether such distribution be made in cash, or any other property, other than stock of the same class in the corporation. It includes such portion of the assets of a corporation distributed at the time of dissolution as are in effect a distribution of earnings.

"(17) The word 'include', when used in a definition contained in this title, shall not be deemed to exclude other things otherwise within the meaning of the term defined.

"(18) The word 'Commissioners' means the Commissioners of the District of Columbia or their duly authorized representative or representatives.

"(19) The word 'District' means the District of Columbia.

"(20) the word 'assessor' means the assessor of the District of Columbia.

"(21) The word 'collector' means the collector of taxes of the District of Columbia.

"TITLE III—FEES AND FINES

"On and after July 1, 1939, there shall be credited to the District of Columbia that proportion of the fees and fines collected by the District Court of the United States for the District of Columbia, including fees and fines collected by the offices of the clerk of that court and of the United States marshal for the District of Columbia, as the amount paid by the District of Columbia toward salaries and expenses of such court and of the offices of the United States district attorney for the District of Columbia and of the United States marshal for the District of Columbia bears to the total amount of such salaries and expenses; and such proportion of the fees and fines, if any, collected by the United States Court of Appeals for the District of Columbia, including fees and fines, if any, collected by the office of the clerk of that court, as the amount paid by the District of Columbia toward the salaries and expenses of such court bears to the total amount of such salaries and expenses.

"TITLE IV—AMENDMENTS TO AND REPEAL OF PRIOR ACTS

"INTANGIBLE PERSONAL PROPERTY

"SEC. 1. The tax on intangible personal property imposed by any law relating to the District shall not apply with respect to any year subsequent to the fiscal year ending June 30, 1939.

"TAX ON CERTAIN UTILITIES

"SEC. 2. (a) Paragraph 5 of section 6 of the Act entitled 'An Act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and three, and for other purposes,' approved July 1, 1902, is hereby amended to read as follows:

" 'PAR. 5. Each national bank as the trustee for its stockholders, through its president or cashier, and all other incorporated banks and trust companies in the District of Columbia, through their presidents or cashiers, and all gas, electric lighting, and telephone companies, through their proper officers, shall make affidavit to the board of personal-tax appraisers on or before the 1st day of August each year as to the amount of its or their gross earnings or gross receipts, as the case may be, for the preceding year ending the 30th day of June, and each national bank and all other incorporated banks and trust companies respectively shall pay to the collector of taxes of the District of Columbia per annum 6 per centum on such gross earnings and each gas company, electric lighting company, and telephone company shall pay to the collector of taxes of the District of Columbia per annum 4 per centum on such gross receipts, from the sale of public utility commodities and services within the District of Columbia. And in addition thereto the real estate owned by each national or other incorporated bank, and each trust, gas, electric-lighting, and telephone company in the District of Columbia shall be taxed as other real estate in said District: *Provided*, That street-railroad companies shall pay 3 per centum per annum on their gross receipts and other taxes as provided by existing law, and insurance companies shall continue to pay the 2 per centum on premium receipts as provided by existing law. Each gas, electric-lighting, telephone and street railroad company shall pay, in addition to the tax herein mentioned, the corporate income tax imposed by title II of the District of Columbia Revenue Act of 1939, and the personal property tax on merchandise stock in trade. So much of the Act approved October 1, 1890, entitled "An Act to provide for the incorporation of trust, loan, mortgage, and certain other corporations within the District of Columbia" as is inconsistent with the provisions of this section is hereby repealed.'

"(b) This section shall not apply to gross earnings or gross receipts for the fiscal year ending the 30th day of June prior to the fiscal year ending June 30, 1940. Taxes shall be levied and collected for the fiscal years preceding the fiscal year ending June 30, 1940, under said paragraph 5 of section 6 of said Act of July 1, 1902, as if this title had not been enacted.

"(c) Section 6 of the Act of July 1, 1902, (c. 1352, 32 Stat. 619), is amended by striking out paragraph 8, so that the corporate excess tax therein provided shall become inoperative.

"TAX ON REAL PROPERTY

"SEC. 3. Title VII of the District of Columbia Revenue Act of 1937, as amended, is amended to read as follows: 'For the fiscal year ending June 30, 1940, the rate of taxation imposed on real and tangible personal property in the District of Columbia shall be 1.75 per centum of the assessed value of such property.'

"TAXABLE STATUS OF MOTOR VEHICLES AS TANGIBLE PERSONAL PROPERTY

"SEC. 4. Notwithstanding any other provision of law, the tangible personal-property tax on motor vehicles, except when consisting of stock in trade of merchants, shall be prorated according to the number of months such property has a situs within the District; and all such motor vehicles shall be assessed at their value as of April 1 each year: *Provided, however,* That where a motor vehicle shall be registered in the District of Columbia for the first time on a date between April 1 of one year and April 1 of the succeeding year, such motor vehicle shall be assessed, for taxation for the period ending with the succeeding April 1, at its value as of date of application for such first registration.

"TAX APPEALS

"SEC. 5. (a) The first sentence of the second paragraph of section 2 of title IX of the District of Columbia Revenue Act of 1937, as amended by the Act approved May 16, 1938, is amended to read as follows: 'The salary of such person so appointed shall be $8,000 per annum.' This amendment shall be effective on and after July 1, 1939.

"(b) Section 3 of title IX of the District of Columbia Revenue Act of 1937, as amended, is amended as follows:

"'SEC. 3. Any person aggrieved by any assessment by the District against him of any personal-property, inheritance, estate, business-privilege, gross-receipts, gross-earnings, insurance-premiums, or motor-vehicle-fuel tax or taxes, or penalties thereon, may, within ninety days after notice of such assessment, appeal from such assessment to the Board, provided such person shall first pay such tax, together with penalties and interest due thereon, to the collector of taxes of the District of Columbia under protest in writing. The mailing to the taxpayer of a statement of taxes due shall be considered notice of assessment with respect of such taxes. The Board shall hear and determine all questions arising on said appeal and shall make separate findings of fact and conclusions of law, and shall render its decision thereon in writing. The Board may affirm, cancel, reduce, or increase such assessment.'

"(b) Subsections (a), (b), and (c) of section 5 of title IX of the District of Columbia Revenue Act of 1937, as amended, are amended to read as follows:

"'(a) The assessor and deputy assessor of the District and the board of all of the assistant assessors, with the assessor as chairman, shall compose a Board of Equalization and Review, and as such Board of Equalization and Review they shall convene in a room to be provided for them by the Commissioners, on the first Monday of January of each year, and shall remain in session until the first Monday in April of each year, after which date no complaint as to valuation as herein provided shall be received or considered by such Board of Equalization and Review. Public notice of the time and place of such session shall be given by publication for two successive days in two daily newspapers in the District not more than two weeks or less than ten days before the beginning of said session. It shall be the duty of said Board of Equalization and Review to fairly and impartially equalize the value of real property made by the board of assistant assessors as the basis for assessment. Any five of said Board of Equalization and Review shall constitute a quorum for business, and, in the absence of the Assessor, a temporary chairman may be selected. They shall immediately proceed to equalize the valuations made by the board of assistant assessors so that each lot and tract and improvements thereon shall be entered upon the tax list at their value in money; and for this purpose they shall hear such complaints as may be made in respect of said assessments, and in determining them they may raise the valuation of such tracts or lots as in their opinion may have been returned below their value and reduce the valuation of such as they may believe to have been returned above their value to such sum as in their opinion may be the value thereof. The valuation of the real property made and equalized as aforesaid shall be completed not later than the first Monday of May annually. The valuation of said real property made and equalized as aforesaid shall be approved by the Commissioners not later than July 1 annually, and when approved by the Commissioners shall constitute the basis of taxation for the next succeeding year and until another valuation is made according to law, except as hereinafter provided. Any person aggrieved by any assessment, equalization, or valuation made, may, within ninety days after October 1 of the year in which such assessment, equalization, or valuation is made, appeal from such assessment, equalization, or valuation in the same manner and to the same extent as provided in sections 3 and 4 of this title: *Provided, however,* That such person shall have first made his complaint to the Board of Equalization and Review respecting such assessment as herein provided.

"'(b) Annually, on or prior to July 1 of each year, the board of assistant assessors shall make a list of all real estate which shall have become subject to taxation and which is not then on the tax list, and affix a value thereon, according to the rules prescribed by law for assessing real estate; shall make return of all new structures erected or roofed, and additions to or improvements of old structures which shall not have been theretofore assessed, specifying the tract or lot of land on which each of such structures has been erected, and the value of such structure, and they shall add such valuation to the assessment made on such tract or lot. When the improvements on any lot or tract of land shall become damaged or be destroyed from any cause, the said board of assistant assessors shall reduce the assessment on said property to the extent of such damage: *Provided,* That the Board of Equalization and Review shall hear such complaints as may be made in respect of said assessments between September 1 and September 30 and determine the same not later than October 15 of the same year. Any person aggrieved by any assessment or valuation made in pursuance of this paragraph may, within ninety days after October 15 of the year in which said valuation or assessment is made, appeal from such assessment or valuation in the same manner and to the same extent as provided in sections 3 and 4 of this title: *Provided, however,* That such person shall have first made his complaint to the Board of Equalization and Review respecting such assessment as herein provided.

"'(c) In addition to the annual assessment of all real estate made on or prior to July 1 of each year there shall be added a list of all new buildings erected or under roof prior to January 1 of each year, in the same manner as provided by law for all annual additions; and the amounts thereof shall be added as assessment for the second half of the then current year payable in the month of March. When the improvements on any lot or tract of land shall become damaged or be destroyed from any cause prior to January 1 of each year the said board of assistant assessors shall reduce the assessment on said property to the extent of said damage for the second half of the then current year payable in the month of March. The Board of Equalization and Review shall hear such complaints as may be made in respect of said assessments for the second half of said year between March 1 and March 31 and determine said complaints not later than April 15 of the same year. Any person aggrieved by any assessment made in pursuance of this paragraph may, within ninety days after April 15 of the year in which such assessment is made, appeal from such assessment in the same manner and to the same extent as provided in sections 3 and 4 of this title: *Provided, however,* That such person shall have first made his complaint to the Board of Equalization and Review respecting such assessment as herein provided.'

"(c) Title IX of the District of Columbia Revenue Act of 1937, as amended, is amended by adding thereto a new section reading as follows:

"'SEC. 13. In any matter affecting taxation, the determination of which is by law left to the discretion of the Commissioners, the Commissioners may, if they so elect, refer such matter to the Board to make findings of fact and submit recommendations, such findings of fact and recommendations, if any, to be advisory only and not binding on the Commissioners, and shall be without prejudice to the Commissioners to make such further and other inquiry and investigation concerning such matter as they in their discretion shall consider necessary or advisable.'

"TANGIBLE PERSONAL PROPERTY STORED IN TRANSIT

"SEC. 6. Nothing in this Act contained, nor shall any prior Act of Congress relating to the District of Columbia be deemed to impose upon any person, firm, association, company, or corporation a tax based upon tangible personal property owned and stored by such person in a public warehouse in the District of Columbia for a period of time no longer than is necessary for the convenience or exigencies of reshipment and transportation to its destination without the District of Columbia.

"TITLE V—INHERITANCE AND ESTATE TAXES

"Title V of the District of Columbia Revenue Act of 1937, as amended by an Act entitled 'An Act to amend the District of Columbia Revenue Act of 1937, and for other purposes,' approved May 16, 1938, is amended to read as follows:

"'Taxes shall be imposed in relation to estates of decedents, the shares of beneficiaries of such estates, and gifts as hereinafter provided:

"'ARTICLE I—INHERITANCE TAX

"'SEC. 1. (a) All real property and tangible and intangible personal property, or any interest therein, having its taxable situs in the District of Columbia, transferred from any person who may die seized or possessed thereof, either by will or by law, or by right of survivorship, and all such property, or interest therein, transferred by deed, grant, bargain, gift, or sale (except in cases of a bona fide purchase for full consideration in money or money's worth), made or intended to take effect in possession or enjoyment after the death of the decedent, or made in contemplation of death, to or for the use of, in trust or otherwise (including property of which the decedent has retained for his life or for any period not ascertainable without reference to his death or for any period which does not in fact end before his death (1) the possession or enjoyment of, or the right to the income from such property or (2) the right, either alone or in conjunction with any person, to designate the persons who shall possess or enjoy the property or the income therefrom), to the father, mother, husband, wife, children by blood or legally adopted children, or any other lineal descendants or lineal ancestors of the decedent, shall be subject to a tax as follows: 1 per centum of so much of said property as is in excess of $5,000 and not in excess of $50,000; 2 per centum of so much of said property as is in excess of $50,000 and not in excess of $100,000; 3 per centum of so much of said property as is in excess of $100,000 and not in excess of $500,000; 4 per centum of so much of said property as is in excess of $500,000 and not in excess of $1,000,000; 5 per centum of so much of said property as is in excess of $1,000,000.

"'(b) So much of said property so transferred to each of the brothers and sisters of the whole or half blood of the decedent shall be subject to a tax as follows: 3 per centum of so much of said property as is in excess of $2,000 and not in excess of $25,000; 4 per centum of so much of said property as is in excess of $25,000 and not in excess of $50,000; 6 per centum of so much of said property as is in excess of $50,000 and not in excess of $100,000;

8 per centum of so much of said property as is in excess of $100,000 and not in excess of $500,000; 10 per centum of so much of said property as is in excess of $500,000.

"'(c) So much of said property so transferred to any person other than those included in paragraphs (a) and (b) of this section and all firms, institutions, associations, and corporations shall be subject to a tax as follows: 5 per centum of so much of said property as is in excess of $1,000 and not in excess of $25,000; 7 per centum of so much of said property as is in excess of $25,000 and not in excess of $50,000; 9 per centum of so much of said property as is in excess of $50,000 and not in excess of $100,000; 12 per centum of so much of said property as is in excess of $100,000 and not in excess of $500,000; 15 per centum of so much of said property as is in excess of $500,000.

"'(d) Executors, administrators, trustees, and other persons making distribution shall only be discharged from liability for the amount of such tax, with the payment of which they are charged, by paying the same as hereinafter described.

"'(e) Property transferred exclusively for public or municipal purposes, to the United States or the District of Columbia, or exclusively for charitable, educational, or religious purposes within the District of Columbia, shall be exempt from any and all taxation under the provisions of this section.

"'(f) Where any beneficiary has died or may hereafter die within six months after the death of the decedent and before coming into the possession and enjoyment of any property passing to him, and before selling, assigning, transferring, or in any manner contracting with respect to his interest in such property, such property shall be taxed only once, and if the tax on the property so passing to said beneficiary has not been paid, then the tax shall be assessed on the property received from such share by each beneficiary thereof, finally entitled to the possession and enjoyment thereof, as if he had been the original beneficiary, and the exemptions and rates of taxation shall be governed by the respective relationship of each of the ultimate beneficiaries to the first decedent.

"'(g) The provisions of article I of this title shall apply to property in the estate of every person who shall die after this title becomes effective.

"'(h) The transfer of any property, or interest therein, within 2 years prior to death, shall, unless shown to the contrary, be deemed to have been made in contemplation of death.

"'(i) All property and interest therein which shall pass from a decedent to the same beneficiary by one or more of the methods specified in this section, and all beneficial interests which shall accrue in the manner herein provided to such beneficiary on account of the death of such decedent, shall be united and treated as a single interest for the purpose of determining the tax hereunder.

"'(j) Whenever any person shall exercise a general power of appointment derived from any disposition of property, made either before or after the passage of this title, such appointment, when made, shall be deemed a transfer taxable, under the provisions of this title, in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power; and whenever any person possessing such power of appointment so derived shall omit or fail to exercise the same, within the time provided therefor, in whole or in part, a transfer taxable under the provisions of this title shall be deemed to take place to the extent of such omissions or failure in the same manner as though the person or persons thereby becoming entitled to the possession or enjoyment of the property to which such power related had succeeded thereto by the will of the donee of the power failing to exercise such power, taking effect at the time of such omission or failure.

"'(k) The doctrine of equitable conversion shall not be invoked in the assessment of taxes under this article.

"'SEC. 2. The tax provided in section 1 shall be paid on the market value of the property or interest therein at the time of the death of the decedent as appraised by the assessor, or, in the discretion of the assessor, upon the value as appraised by the probate court of the District. The taxable portion of real or personal property held jointly or by the entireties shall be determined by dividing the value of the entire property by the number of persons in whose joint names it was held.

"'SEC. 3. The appraisal thus made shall be deemed and taken to be the true value of the said property or interest therein upon which the said tax shall be paid, and the amount of said tax and the tax imposed by article II of this title shall be a lien on said property or interest therein for the period of ten years from the date of death of the decedent: *Provided, however,* That such lien shall not attach to any personal property sold or disposed of for value by an administrator, executor, or collector, of the estate of such decedent appointed by the District Court of the United States for the District of Columbia or by a trustee appointed under a will filed with the register of wills for the District or by order of said court, or his successor approved by said court, but a lien for said taxes shall attach on all property acquired in substitution therefor for a period of ten years after the acquisition of such substituted property: *And provided further,* That such lien upon such substituted property shall, upon sale by such personal representatives, be extinguished and shall reattach in the manner as provided with respect of such original property.

"'SEC. 4. The personal representative of every decedent, the gross value of whose estate is in excess of $1,000, shall, within fifteen months after the death of the decedent, report under oath to the assessor, on forms provided for that purpose an itemized schedule of all the property (real, personal, and mixed) of the decedent, the market value thereof at the time of the death of the decedent, the name or names of the persons to receive the same and the actual value of the property that each will receive, the relationship of such persons to the decedent, and the age of any persons who receive a life interest in the property, and any other information which the assessor may require. Said personal representative shall, within eighteen months of the date of the death of the decedent and before distribution of the estate, pay to the collector of taxes the taxes imposed by section 1 upon the distributive shares and legacies in his hands and the tax imposed by section 1 hereof against each distributive share or legacy shall be charged against such distributive share or legacy unless the will shall otherwise direct.

"'SEC. 5. The personal representative of the decedent shall collect from each beneficiary entitled to a distributive share or legacy the tax imposed upon such distributive share or legacy in section 1 hereof, and if the said beneficiary shall neglect or fail to pay the same within fifteen months after the date of the death of the decedent such personal representative shall, upon the order of the District Court of the United States for the District of Columbia, sell for cash so much of said distributive share or legacy as may be necessary to pay said tax and all the expenses of said sale.

"'SEC. 6. Every person entitled to receive property taxable under section 1 hereof, which property is not under the control of a personal representative, and is over $1,000 in value, shall, within six months after the death of the decedent, report under oath to the assessor, on forms provided for that purpose, an itemized schedule of all property (real, personal, and mixed) received or to be received by such person; the market value of the same at the time of the death of the decedent and the relationship of such person to the decedent; and any other information which the assessor may require. The tax on the transfer of any such property shall be paid by such person to the collector of taxes within nine months after the date of the death of the decedent: *Provided, however,* That with respect to real estate passing by will or inheritance such report shall be made within fifteen months after the death of the decedent, and the tax on the transfer thereof shall be paid within eighteen months after the date of the death of the decedent.

"'SEC. 7. In the case of any grant, deed, devise, descent, or bequest of a life interest or term of years, the donee for life or years shall pay a tax only on the value of his interest, determined in a manner as the Commissioners by regulation may prescribe, and the donee of the future interest shall pay a tax only on his interest as based upon the value thereof at the time of the death of the decedent creating such interest. The value of any future interest shall be determined by deducting from the market value of such property at the time of the death of such decedent the value of the precedent life interest or term of years. Where the future interest is vested the donee thereof shall pay the tax within the time in which the tax upon the precedent life interest or term of years is required to be paid under the provisions of sections 4 and 6 of this article, as the case may be. Where the future interest is contingent the personal representative of such decedent or the persons interested in such contingent future estate shall have the option of (1) paying, within the time herein provided for the payment of taxes due upon vested future interests, a tax equal to the mean between the highest possible tax and the lowest possible tax which could be imposed under any contingency or condition whereby such contingent future interest might be wholly or in part created, defeated, extended, or abridged; or (2) paying the tax upon such transfer at the time when such future interest shall become vested at rates and with exemptions in force at the time of the death of the decedent: *Provided,* That the personal representative or trustee of the estate of the decedent or the persons interested in the future contingent interest shall deposit with the assessor a bond in the penal sum of an amount equal to twice the tax payable under option (1) hereof. Such bonds shall be payable to the District and shall be conditioned for the payment of such tax when and as the same shall become due and payable. The tax upon the transfer of future interests or remainders shall be a lien upon the property or interest transferred from the date of the death of the decedent creating the interests and shall remain in force and effect until ten years after the date when such remainder or future interest shall become vested in the donee thereof. If the tax upon the transfer of a contingent future interest is paid before the same shall become vested, such tax shall be paid by the personal representative out of the corpus of the estate of the decedent, otherwise by the person or persons entitled to receive the same.

"'ARTICLE II—ESTATE TAXES

"'SEC. 1. In addition to the taxes imposed by article I, there is hereby imposed upon the transfer of the estate of every decedent who, after this title becomes effective, shall die a resident of the District, a tax equal to 80 per centum of the Federal estate tax imposed by subdivision (a) of section 301, title III, of the Revenue Act of 1926, as amended, or as hereafter amended or reenacted.

"'SEC. 2. There shall be credited against and applied in reduction of the tax imposed by section 1 of this article the amount of any estate, inheritance, legacy, or succession tax lawfully imposed by any State or Territory of the United States, in respect of any property included in the gross estate for Federal estate-tax purposes as prescribed in title III of the Revenue Act of 1926, as amended, or as hereafter amended or reenacted: *Provided, how-*

ever, That only such taxes as are actually paid and credit therefor claimed and allowed against the Federal estate tax may be applied as a credit against and in reduction of the tax imposed by section 1.

" 'SEC. 3. In no event shall the tax imposed by section 1 of this article exceed the difference between the maximum credit which might be allowed against the Federal estate tax imposed by title III of the Revenue Act of 1926, as amended, or as hereafter amended or reenacted, and the aggregate amount of the taxes described in section 2 of this article (but not including the tax imposed by section 1) allowable as a credit against the Federal estate tax.

" 'SEC. 4. The purpose of section 1 of this article is to secure for the District the benefit of the credit allowed under the provisions of section 301 (c) of title III of the Revenue Act of 1926, as amended, or as hereafter amended or reenacted, to the extent that the District may be entitled by the provisions of said Revenue Act, by imposing additional taxes, and the same shall be liberally construed to effect such purpose: *Provided,* That the amount of the tax imposed by section 1 of this article shall not be decreased by any failure to secure the allowance of credit against the Federal estate tax.

" 'SEC. 5. A tax is hereby imposed upon the transfer of real property or tangible personal property in the District of every person who at the time of death was a resident of the United States but not a resident of the District, and upon the transfer of all property, both real and personal, within the District of every person who at the time of death was not a resident of the United States, the amount of which shall be a sum equal to such proportion of the amount by which the credit allowable under the applicable Federal revenue Act for estate, inheritance, legacy, and succession taxes actually paid to the several States exceeds the amount actually so paid for such taxes, exclusive of estate taxes based upon the difference between such credit and other estate taxes and inheritance, legacy, and succession taxes, as the value of the property in the District bears to the value of the entire estate, subject to estate tax under the applicable Federal revenue Act.

" 'SEC. 6. Every executor or administrator of the estate of a decedent dying a resident of the District or of a nonresident decedent owning real estate or tangible personal property situated in the District, or of an alien decedent owning any real estate, tangible or intangible personal property situated in the District, or, if there is no executor or administrator appointed, qualified, and acting, then any person in actual or constructive possession of any property forming a part of an estate subject to estate tax under this title shall, within sixteen months after the death of the decedent file with the assessor a copy of the return required by section 304 of the Revenue Act of 1926, verified by the affidavit of the person filing said return with the assessor, and shall, within thirty days after the date of any communication from the Commissioner of Internal Revenue, confirming, increasing, or diminishing the tax shown to be due, file a copy of such communication with the assessor. With the copy of the Federal estate-tax return there shall be filed an affidavit as to the several amounts paid or expected to be paid as taxes within the purview of section 2 of this article: *Provided, however,* That in any case where the time for the filing of such return as required by section 304 of the Revenue Act of 1926 is extended without penalty by the Bureau of Internal Revenue, then the copy thereof verified as aforesaid may be filed with the assessor within thirty days after the expiration of said extended period.

" 'SEC. 7. The assessor shall, upon receipt of the return and accompanying affidavit, assess such amount as he may determine, from the basis of the return, to be due the District. Upon receipt of a copy of any communication from the Commissioner of Internal Revenue, herein required to be filed, the assessor shall make such additional assessment or shall make such abatement of the assessment as may appear proper.

" 'SEC. 8. The estate taxes imposed by this article shall be paid to the collector of taxes within seventeen months after the death of the decedent: *Provided, however,* That in any case where the time for the payment of taxes imposed by subdivision (a) of section 301, title III, of the Revenue Act of 1926, is extended by the Bureau of Internal Revenue, then the tax imposed by this article shall be paid within sixty days after the expiration of such extended period, together with interest as provided in section 4 of article IV of this title: *Provided further,* That any additional assessment found to be due under section 7 of this article shall be paid to the collector of taxes within thirty days after the determination of such additional assessment by the assessor.

" 'ARTICLE III—GENERAL

" 'SEC. 1. The bond of the personal representative of the decedent shall be liable for all taxes and penalties assessed under this title, except inheritance taxes and penalties imposed in relation to the transfer of property not under the control of such personal representative: *Provided,* That in no case shall the bond of the personal representative be liable for a greater sum than is actually received by him.

" 'SEC. 2. The register of wills of the District shall report to the assessor on forms provided for the purpose every qualification in the District upon the estate of a decedent. Such report shall be filed with the assessor at least once every month, and shall contain the name of the decedent, the date of his death, the name and address of the personal representative, and the value of the estate, as shown by the petition for administration or probate.

" 'SEC. 3. The Commissioners shall have supervision of the enforcement of this title and shall have the power to make such rules and regulations, consistent with its provisions, as may be necessary for its enforcement and efficient administration and to provide for the granting of extension of time within which to perform the duties imposed by this title. The assessor shall determine all taxes assessable under this title and immediately upon the determination of same, shall forward a statement of the taxes determined to the person or persons chargeable with the payment thereof and shall give advice thereof to the collector of taxes. The assessor is hereby authorized and empowered to summon any person before him to give testimony on oath or affirmation or to produce all books, records, papers, documents, or other legal evidence as to any matter relating to this title, and the assessor is authorized to administer oaths and to take testimony for the purposes of the administration of this title. Such summons may be served by any member of the Metropolitan Police Department. If any person having been personally summoned shall neglect or refuse to obey the summons issued as herein provided, then and in that event the assessor may report that fact to the District Court of the United States for the District of Columbia or one of the justices thereof, and said court or any justice thereof hereby is empowered to compel obedience to said summons to the same extent as witnesses may be compelled to obey the subpenas of that court.

" 'SEC. 4. If the taxes imposed by this title are not paid when due, 1 per centum interest for each month or portion of a month from the date when the same were due until paid shall be added to the amount of said taxes and collected as a part of the same, and said taxes shall be collected by the collector of taxes in the manner provided by the law for the collection of taxes due the District on personal property in force at the time of such collection: *Provided, however,* That where the time for payment of the tax imposed by this title is extended by the assessor or where the payment of the tax is lawfully suspended under the regulations for the administration of this title, interest shall be paid at the rate of 6 per centum per annum from the date on which the tax would otherwise be payable.

" 'SEC. 5. If any person shall fail to perform any duty imposed upon him by the provisions of this title or the regulations made hereunder the Commissioners may proceed by petition for mandamus to compel performance and upon the granting of such writ the court shall adjudge all costs of such proceeding against the delinquent.

" 'SEC. 6. Any person required by this title to file a return who fails to file such return within the time prescribed by this title, or within such additional time as may be granted under regulations promulgated by the Commissioners, shall become liable in his own person and estate to the District in an amount equal to 10 per centum of the tax found to be due. In case any person required by this title to file a return knowingly files a false or fraudulent return, he shall become liable in his own person and estate to the said District in an amount equal to 50 per centum of the tax found to be due. Such amounts shall be collected in the same manner as is herein provided for the collection of the taxes levied under this title.

" 'SEC. 7. Any person required by this title to pay a tax or required by law or regulation made under authority thereof to make a return or keep any records or supply any information for the purposes of computation, assessment, or collection of any tax imposed by this title, who willfully fails to pay such tax, make any such return, or supply any such information at the time or times required by law or regulation shall, in addition to other penalties provided by law, be guilty of a misdemeanor and upon conviction thereof be fined not more than $1,000 or imprisoned for not more than one year, or both.

" 'SEC. 8. When the assessor is satisfied that the tax liability imposed by this title has been fully discharged or provided for, he may, under regulations prescribed by the Commissioners, issue his certificate, releasing any or all property from the lien herein imposed.

" 'SEC. 9. No person holding, within the District, tangible or intangible assets of any resident or nonresident decedent, of the value of $300 or more, shall deliver or transfer the same or any part thereof to any person other than an executor, administrator, or collector of the estate of such decedent appointed by the District Court of the United States for the District of Columbia, unless notice of the date and place of such intended transfer be served upon the assessor of the District of Columbia at least ten days prior to such delivery or transfer, nor shall any person holding, within the District of Columbia, any assets of a resident or nonresident decedent, of the value of $300 or more, deliver or transfer the same or any part thereof to any person other than an executor, administrator, or collector of the estate of such decedent appointed by said District Court without retaining a sufficient portion or amount thereof to pay any tax which may be assessed on account of the transfer of such assets under the provisions of articles I and II without an order from the assessor of the District of Columbia authorizing such transfer. It shall be lawful for the assessor of the District, personally, or by his representatives, to examine said assets at any time before such delivery or transfer. Failure to serve such notice or to allow such examination or to retain as herein required a sufficient portion or amount to pay the taxes imposed

by this title shall render such person liable to the payment of such taxes. The assessor of the District may issue a certificate authorizing the transfer of any such assets whenever it appears to the satisfaction of said assessor that no tax is due thereon: *Provided, however,* That any corporation, foreign or domestic to the District having outstanding stock or other securities registered in the sole name of a decedent whose estate or any part thereof is taxable under this title, may transfer the same, without notice to the assessor and without liability for any tax imposed thereon under this title, upon the order of an administrator, executor, or collector of the estate of such decedent appointed by the District Court of the United States for the District of Columbia, or by a trustee appointed under a will filed with the register of wills of the District, or appointed by said court, or his successor approved by said court: *Provided further,* That the lessor of a safe-deposit box standing in the joint names of a decedent and a survivor or survivors may deliver the entire contents of such safe-deposit box to the survivor or survivors, after examination of such contents by the assessor or his representative, without any liability on the part of the said lessor for the payment of such tax.

"'SEC. 10. The Bureau of Internal Revenue of the Treasury Department of the United States is authorized and required to supply such information as may be requested by the Commissioners relative to any person subject to the taxes imposed under this title or relative to any person whose estate is subject to the provisions of this title.

"'SEC. 11. If any return required by this title is not filed with the assessor when due, the assessor shall have the right to determine and assess the tax or taxes from such information as he may possess or obtain.

"'SEC. 12. The assessor is authorized to enter into an agreement with any person liable for a tax on a transfer under article I of this title, in which remainders or expectant estates are of such nature or so disposed and circumstanced that the value of the interest is not ascertainable under the provisions of this title, and to compound and settle such tax upon such terms as the assessor may deem equitable and expedient.

"'SEC. 13. In the interpretation of this title unless the context indicates a different meaning the term "tax" means the tax or taxes mentioned in this title.

"'(a) The term "District" means the District of Columbia.

"'(b) The term "Commissioners" means the Commissioners of the District of Columbia, or their duly authorized representative or representatives.

"'(c) The term "assessor" means the assessor of the District of Columbia or his duly authorized representative or representatives.

"'(d) The term "collector of taxes" means the collector of taxes for the District of Columbia, or his duly authorized representative or representatives.

"'(e) The term "Metropolitan Police Department" means the Metropolitan Police Department of the District of Columbia.

"'(f) The term "include" when used in a definition contained in this title, shall not be deemed to exclude other things otherwise within the meaning of the term defined.

"'(g) The term "resident" means domiciled and the term "residence" means domicile.

"'SEC. 14. The provisions of this title shall become effective at 12:01 antemeridian, the day immediately following its approval.'"

"TITLE VI—ADVANCEMENT OF MONEY BY TREASURY

"Until and including June 30, 1940, the Secretary of the Treasury, notwithstanding the provisions of the District of Columbia Appropriation Act, approved June 29, 1922, is authorized and directed to advance, on the requisition of the Commissioners of the District of Columbia, made in the manner now prescribed by law, out of any money in the Treasury of the United States not otherwise appropriated, such sums as may be necessary from time to time to meet the general expenses of said District as authorized by Congress, and such amounts so advanced shall be reimbursed by the said Commissioners to the Treasury out of taxes and revenue collected for the support of the government of the said District of Columbia."

"TITLE VII—EXTENSION OF CERTAIN TAX PROVISIONS

"The laws authorizing the imposition by the District of Columbia of intangible personal property taxes and business privilege taxes are hereby extended from and after June 30, 1939, for the following purposes in connection with the taxes accrued or due under such laws prior to July 1, 1939—

"(1) For the imposition of assessments and penalties, civil and criminal, for the violation of or failure to comply with such laws and the regulations issued thereunder;

"(2) For requiring the making, filing, and submission of returns and reports required by such laws;

"(3) For the examination of all books, records, and other documents, and witnesses; and

"(4) For the assessment and collection of such taxes, and the filing of liens therefor.

"TITLE VIII—GENERAL PROVISIONS

"SEPARABILITY CLAUSE

"SEC. 1. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

"RULES AND REGULATIONS

"SEC. 2. The Commissioners shall prescribe and publish all needful rules and regulaions for the enforcement of this Act."

And the Senate agree to the same.

JOHN H. OVERTON,
WILLIAM H. KING,
CARTER GLASS,
MILLARD E. TYDINGS,
ARTHUR CAPPER,
Managers on the part of the Senate.
JENNINGS RANDOLPH,
AMBROSE KENNEDY,
EVERETT M. DIRKSEN,
GEORGE J. BATES,
Managers on the part of the House.

The VICE PRESIDENT. Is there objection to the immediate consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. OVERTON. Mr. President, I wish to make a brief explanation with reference to the conference report. The conference report is the same as the report submitted the other day to the Senate with the following changes:

The Federal payment to the expenses of the District of Columbia is fixed in the sum of $6,000,000 annually, instead of $6,500,000, as was provided in the original conference report.

The provisions with reference to the appointment of a joint committee for a further study of the tax structure and tax problems of the District of Columbia have, by agreement between the conferees, been eliminated.

There is a provision authorizing the collection of taxes and penalties which have accrued with respect to the tax on intangible personal property and with respect to the business-privilege tax, both of which taxes have been eliminated in the bill as agreed to between the conferees.

The total revenue which it is estimated will be raised by the bill is for the fiscal year 1940 the sum of $41,770,000. That is the total amount which will be raised for general-fund appropriations. The general-fund appropriations for the District of Columbia as provided for in the Appropriation Act of 1940 are $41,859,978. There will, therefore, be a deficit of $89,978. This deficit, however, is practically overcome by a general-fund surplus carried over from the fiscal year 1939.

At this point I ask unanimous consent to have inserted in the RECORD a memorandum relating to the general fund of the District of Columbia for the fiscal years 1939 and 1940, and a memorandum of the general-fund appropriations of the District of Columbia for the fiscal year 1940, which have been prepared by the Auditor of the District of Columbia.

The VICE PRESIDENT. Without objection, it is so ordered.

The memoranda are as follows:

Memorandum relating to the general fund of the District of Columbia for the fiscal years 1939 and 1940—Revenue collections for 1939 and estimated revenue collections for 1940, the latter based upon the District tax bill as agreed to July 7, 1939, by the Senate and House conferees

Source of revenue	Fiscal year 1939	Fiscal year 1940
Tax on real estate, $1.75 rate	$20,940,032	$21,200,000
Tax on tangible personal property, $1.75 rate	1,529,437	1,450,000
Tax on intangible personal property	2,810,623	[1] 50,000
Tax on public utilities, banks, building associations, etc.	2,138,153	2,150,000
Personal tax on motor vehicles	626,429	650,000
Interest and penalties on taxes	319,180	350,000
Alcoholic beverages, licenses, and taxes	1,927,981	1,950,000
Business privilege tax	1,884,773	[1] 200,000
Inheritance and estate taxes	430,641	500,000
Miscellaneous revenue	3,740,860	3,500,000
Credit arising from unexpended balances of appropriations	789,158	600,000
Personal net income tax		800,000
5-percent corporation net income tax		2,200,000
Prorating personal-property tax on motor vehicles		20,000
Change in rates in taxes on public utilities		50,000
Part of fines and fees, United States District Court and United States Court of Appeals		100,000
Federal payment	5,000,000	6,000,000
Total	42,137,277	41,770,000

[1] Estimated collection during 1940 of unpaid taxes on June 30, 1939.

NOTE.—Estimates for 1940 subject to revision.

Memorandum—General fund of the District of Columbia, fiscal year 1940

District of Columbia appropriation bill for 1940 (general-fund items)	$40,402,192
General-fund items to be provided for in other appropriation bills:	
60 percent of United States District Court; 30 percent of United States Court of Appeals	555,575
One-half of appropriation for Freedmen's Hospital ($484,840)	242,420
Executive office (special salary item)	1,800
Supplementals, deficiencies, judgments, settlements of claims, etc	600,000
Assessor's office (additional personnel, etc., under new tax bill)	57,991
Total estimated charges against District of Columbia general fund, fiscal year 1940	41,859,978
Total estimated revenue collections, general fund, fiscal year 1940	41,770,000
Deficit	89,978
General-fund surplus from 1939	89,763

Mr. OVERTON. I move the adoption of the conference report .

The report was agreed to.

ORDER OF BUSINESS

Mr. BARKLEY. Mr. President, I have been asked by a number of Senators about the call of the calendar, and I wish to state for the information of all Senators that following the disposition of the pending bill the Senator from Massachusetts [Mr. WALSH] desires to have the Senate take up the amendments to the Walsh-Healy Act, which will require only an hour or so, and following that I hope that we may have a call of the calendar for the consideration of unobjected-to bills.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS AND JOINT RESOLUTIONS

Messages in writing from the President of the United States were communicated to the Senate, by Mr. Latta, one of his secretaries, who also announced that the President had approved and signed the following acts and joint resolutions:

On June 30, 1939:

S. 2618. An act to extend the period during which direct obligations of the United States may be used as collateral security for Federal Reserve notes; and

S. 1805. An act to establish a lien for moneys due hospitals for services rendered in cases caused by negligence or fault of others and providing for the recording and enforcing of such liens.

On July 13, 1939:

S. 1018. An act to authorize the procurement, without advertising, of certain aircraft parts and instruments or aeronautical accessories, and for other purposes.

On July 14, 1939:

S. 216. An act for the relief of A. C. Williams, administrator of the estate of his wife, Julia F. Williams;

S. 875. An act for the relief of Andrew J. Crockett and Walter Crockett;

S. 884. An act for the relief of disbursing officers and other officers and employees of the United States for disallowances and charges on account of airplane travel;

S. 1181. An act to provide for the status of warrant officers and of enlisted men of the Regular Army who serve as commissioned officers;

S. 1307. An act authorizing the Secretary of War to grant a revocable license to the Union Pacific Railroad Co. to maintain certain railroad trackage on the Fort Leavenworth Military Reservation;

S. 1452. An act for the relief of Loyd J. Palmer;

S. 1487. An act for the relief of the Postal Telegraph Cable Co.;

S. 1847. An act for the relief of Naomi Straley and Bonnie Straley;

S. 2126. An act authorizing the Comptroller General of the United States to adjust and settle the claim of E. Devlin, Inc.;

S. 2222. An act to provide for a deputy chief of staff, and for other purposes;

S. 2237. An act to amend the Taylor Grazing Act;

S. 2353. An act to authorize appropriation for the construction of a medical school building at Carlisle Barracks, Pa.; and

S. J. Res. 124. Joint resolution authorizing the President to invite foreign countries to participate in the San Diego-Quadricentennial Celebration, to be held in 1942.

On July 15, 1939:

S. 12. An act for the relief of Dica Perkins;

S. 129. An act for the relief of Howard Arthur Beswick;

S. 221. An act for the relief of Anthony Coniglio;

S. 431. An act for the relief of Mrs. Quitman Smith;

S. 510. An act to authorize certain officers and enlisted men of the United States Army to accept such medals, orders, and decorations as have been tendered them by foreign governments in appreciation of services rendered;

S. 633. An act for the relief of Ray Wimmer;

S. 746. An act to authorize Maj. Andrew S. Rowan, United States Army, retired, to accept the Order Carlos Manuel de Céspedes tendered him by the Government of Cuba in appreciation of services rendered;

S. 840. An act to amend and clarify the provisions of the act of June 15, 1936 (49 Stat. 1507), and for other purposes;

S. 1001. An act for the relief of Albert Pina Afonso, a minor;

S. 1020. An act to authorize the purchase of equipment and supplies for experimental and test purposes;

S. 1021. An act to extend the benefits of the United States Employees' Compensation Act to members of the Officers' Reserve Corps and of the Enlisted Reserve Corps of the Army who are physically injured in line of duty while performing active duty or engaged in authorized training, and for other purposes;

S. 1118. An act to provide for acceptance and cashing of Government pay checks of retired naval personnel and members of the Naval and Marine Corps Reserves by commissary stores and ship's stores ashore, located outside the continental limits of the United States;

S. 1186. An act for the relief of Herbert M. Snapp;

S. 1387. An act for the relief of Ida May Lennon;

S. 1517. An act for the relief of F. E. Perkins;

S. 1523. An act to authorize the payment of burial expenses and expenses in connection with last illness and death of native employees who die while serving in offices abroad of executive department of the United States Government;

S. 1692. An act for the relief of J. Vernon Phillips;

S. 1778. An act authorizing the Secretary of the Interior to issue to Martha Austin a patent to certain land;

S. 1894. An act for the relief of Ivan Charles Grace;

S. 1895. An act for the relief of Maria Enriquez, Crisanta, Anselmo, Agustin, and Irineo de los Reyes;

S. 2096. An act to amend section 4a of the act entitled "An act for making further and more effectual provision for the national defense, and for other purposes," approved June 3, 1916, as amended;

S. 2167. An act to provide for the reimbursement of certain members or former members of the United States Coast Guard for the value of personal effects lost in the hurricane of September 21, 1938, at several Coast Guard stations on the coasts of New York, Connecticut, and Rhode Island;

S. 2503. An act to amend an act entitled "An act to authorize the establishment of a permanent instruction staff at the United States Coast Guard Academy," approved April 16, 1937;

S. 2539. An act to amend section 1223 of the Revised Statutes of the United States;

S. J. Res. 2. Joint resolution providing for consideration of a recommendation for decoration of Sgt. Fred W. Stockham, deceased; and

S. J. Res. 126. Joint resolution to amend the act to authorize alterations and repairs to certain naval vessels, and for other purposes, approved April 20, 1939.

MESSAGE FROM THE HOUSE

The message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House

had passed without amendment the bill (S. 26) to empower the President of the United States to create new national-forest units and make additions to existing national forests in the State of Montana.

The message also announced that the House had passed the bill (S. 281) to amend further the Civil Service Retirement Act, approved May 29, 1939, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 6746. An act to amend certain provisions of the Merchant Marine and Shipping Acts, to further the development of the American merchant marine, and for other purposes; and

H. R. 7052. An act to provide a posthumous advancement in grade for the late Ensign Joseph Hester Patterson, United States Navy.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bill and joint resolution, and they were signed by the Vice President:

H. R. 5748. An act to amend the Second Liberty Bond Act, as amended; and

H. J. Res. 329. Joint resolution consenting to an interstate oil compact to conserve oil and gas.

HOUSE BILLS REFERRED OR PLACED ON THE CALENDAR

The following bills were each read twice by their titles and referred, or ordered to be placed on the calendar, as follows:

H. R. 6747. An act relating to the retirement of employees to whom the provisions of section 6 of the act approved June 20, 1918 (40 Stat. 608; U. S. C., 1934 ed., title 33, sec. 763), as amended, apply; to the Committee on Commerce.

H. R. 7052. An act to provide a posthumous advancement in grade for the late Ensign Joseph Hester Patterson, United States Navy; to the calendar.

PROHIBITION OF BLOCK BOOKING AND BLIND SELLING OF MOTION-PICTURE FILMS

The Senate resumed the consideration of the bill (S. 280) to prohibit and to prevent the trade practices known as compulsory block booking and blind selling in the leasing of motion-picture films in interstate and foreign commerce.

Mr. CAPPER. Mr. President, in taking the floor today in support of the bill to prohibit and prevent the trade practices known as compulsory block booking and blind selling of motion-picture films in interstate and foreign commerce, I wish to say at the outset that I do not pretend to have any profound or intimate knowledge of the details of the motion-picture industry.

So far as the pending legislation is concerned, the separate reports filed by the majority and minority of the Committee on Interstate Commerce indicate divergent views on certain technical questions relative to the production and distribution of films. I do not feel qualified to discuss these questions.

As I see the matter, however, the solution of these technical problems is not the major question raised in this legislation. My support of the bill is based on broader, and to my mind more compelling, reasons.

In the first place, I do not believe it is sound policy that any distributor of motion pictures—or of other commodities, for that matter—should say to the prospective buyers:

"You must take things I have for sale that you do not want in order to get the things you do want."

That seems to me to be in restraint of trade, and an unfair practice. It restrains the freedom of the buyer, whether he be an exhibitor or one who buys for resale, to select the products best calculated to please his customers. It also restrains the prospective buyer from dealing with other distributors, whose products are crowded out of the buyer's theater or store to the extent that such distributor's products are forced on the theater or store management.

If this manner of handling films were practiced by only one or two distributors, comprising a small part of the industry, it might not be necessary to enact Federal legislation to correct the evil; but to me it seems contrary to the public interest when it is the practice of a group of distributors who, together, handle such a large part of the products the buyer must have.

My information is that some eight corporations handle about 80 percent of the quality films of the country, and that these corporations combine to force block booking and blind selling upon the operators of film theaters.

Obviously, exhibitors must depend upon these corporations for pictures. To the extent that those corporations use this full line, forcing the films upon exhibitors "sight unseen," they practice a form of coercion that has no place in American industry.

I gather from the hearings, Mr. President, that there is little dispute that block booking is imposed upon exhibitors. If it were not, there would not be the Nation-wide demand for remedial legislation that there undoubtedly is; nor would there be such determined opposition to this legislation from those interests accused of the practice.

I believe this phase of the matter was well covered by the Senator from Idaho [Mr. BORAH] and the Senator from West Virginia [Mr. NEELY] in a colloquy on the Senate floor preceding the passage of the bill last year. I quote:

Mr. BORAH. We all have had letters from independent exhibitors all over the country complaining about that, and even if the practice is not so great as has been stated, yet it certainly is a great evil. I cannot see any harm, and I can see much good, in prohibiting it, even if it is not so great an evil.

Mr. NEELY. Mr. President, if compulsory block booking does not exist, can any Senator suggest how anyone in the motion-picture business could be injured by our making it unlawful?

However, my interest in this bill is not primarily an interest in the business of the exhibitors. It goes farther than that. It goes to the public interest involved. My interest is the interest of the many religious, educational, welfare, and farm bodies which are actively supporting the measure.

These groups maintain, and I think with good reason, that local exhibitors should not have to run all pictures released them by the distributors, but should have some freedom of selection.

It seems to me the exhibitors should be allowed some freedom in selecting the films they believe to be best suited for the communities in which they operate. When the local exhibitors have no choice, there is nothing they can do when objectionable or poor films are sent to them except to run them. Nor can they go elsewhere and get outstanding films when their operating time is filled with pictures which they consider it inadvisable to run.

Mr. President, I am particularly impressed by the deep interest taken in this measure by such organizations as the National Congress of Parent-Teachers' Associations, the American Home Economics Association, the American Association of University Women, the Catholic Daughters of America, the National Grange, and many others. Their position and the extent of their interest are shown in the transcript of the hearings and in the committee report on the bill.

In this connection I desire to call attention to the statement of Fred Brenckman, legislative representative of the National Grange, whom I have known for many years and for whose opinions I have great respect. Mr. Brenckman said, in part:

The National Grange has long been in favor of legislation which will abolish the practice of compulsory block booking and blind selling of motion pictures. In our opinion, this practice is far more destructive of the American principle of freedom of choice in the field of entertainment in rural communities than in our cities and towns.

In our urban centers there usually is more than one theater, so that if the seeker for relaxation or entertainment is unable to find that for which he is looking in one theater, he may at least have a second or third choice.

In villages or small towns where the rural folks seek entertainment, there is not usually more than one motion-picture theater, and that is operated by an independent exhibitor. If complaints are made to him regarding the type of picture shown, his answer invariably is that in order to furnish any program he must lease his pictures in large blocks long prior to the date when they are shown and usually before they are produced. This practice makes it impossible for him to meet the demands of the local patrons.

Believing as we do that this domination of the purchaser or the exhibitor by the producer is wholly contrary to the American principle of fair play and a square deal, besides being frequently destructive of the character of plastic youth, the Grange strongly favors the passage of legislation to abolish block booking and blind selling of motion pictures.

Mr. President, it certainly seems to me that these small-town exhibitors ought not to have to play whatever pictures the producers and distributors send them, but that they should be in a position to cooperate with their local patrons in selecting good pictures if that is the kind they and their patrons desire.

It seems to me it is essential that the exhibitors should have a right of selection, and also the proper information on which to exercise that right intelligently. I am all the more convinced that this is true when I reflect upon the tremendous influence which the "movies" have on children, as shown in the statements summarized on pages 4 to 6 of the committee report. I desire to read a brief passage from a letter published in the hearings—page 69—written by Dean Claude A. Shull, of the San Francisco Motion Picture Council, under date of March 13, 1939:

I have been an educator for 26 years, and am at present teaching in one of the State colleges of California. We have invested in this country over $10,000,000,000 in school buildings and equipment, which we are operating at a cost of about $3,000,000,000 a year. To some considerable degree this educational system is meeting competition in the motion-picture theater. In an article released to the newspapers of this State on July 29, 1934, State Superintendent Vierling Kersey wrote: "Eventually it is to be hoped that the motion-picture theater will become the ally rather than the rival of the schoolroom in the education of youth." A letter from Superintendent Harold G. Campbell, of New York City, contained the following: "There is no doubt in my mind that much of the good the schools are doing, especially in the field of character training and in the development of the right social attitudes, is being thwarted and undermined by substandard motion pictures." Prof. Ben Wood, of Columbia University, has pointed out that when a questionnaire was sent by Roger W. Babson to the school principals asking which had the greatest influence in molding the character of our young children—the school, the church, or the home—70 percent of the principals scratched out all three and wrote in "the movies."

The Tenth Yearbook of the Department of Superintendence of the National Education Association contains a report of a commission on character education, as follows:

"Here (speaking of motion pictures) is obviously an agency of moral education of tremendous power. That it is living up to its possibilities as a cultural institution, however, few would maintain. * * * In fact, at present, the thesis might well be defended that it is more of a liability than an asset."

Mr. President, as I view this bill, its purposes are twofold and its provisions seem to give them effect.

First. The bill is designed to prohibit the compulsory block booking of motion-picture films. The language of the bill leaves no doubt as to its purpose in this respect. The bill recognizes that this prohibition may be evaded by charging prohibitive prices for films sold individually or in groups less than blocks as compared with the prices for films sold in blocks; so it undertakes to prevent differentials between block prices and less than block prices which would be so disproportionate as to compel the exhibitors to forego their rights under the legislation and continue to submit to the practices which the bill condemns.

Another declared purpose is to prevent blind selling. This is sought to be accomplished by requiring the distributors, when offering pictures to the exhibitors, to supply synopses showing the contents of the pictures. The reason for this requirement is that an exhibitor will be unable to exercise his rights under the provisions against compulsory block booking unless he is supplied with sufficient information concerning the pictures to be released on which to base his selections.

These declared purposes, and the provisions calculated to effectuate these purposes, are the important things in the measure. The rest is detail. If opponents of the measure can suggest changes in wording which will not affect the efficacy of the measure in attaining these two main objectives, by all means they should do so. If the bill is enacted, and is found to work undue hardships in actual practice, it can be modified. For my part, I have noticed that as a rule the dire predictions which are always made when remedial legislation is being considered rarely are borne out in actual experience. Once desirable remedial legislation is enacted, the industries affected conform thereto, and in time all recognize that an advance has been made in human progress.

It is my belief that this will happen when this measure is enacted. In the interest of fair play in the motion-picture industry and in the higher interest of the welfare of children, and particularly of the small towns and rural communities, I hope the Senate will pass the bill promptly, that it will also be passed by the House, and that it will become the law of the land.

Mr. President, I ask that a telegram I have received from the American Association of University Women and 12 other national women's organizations, in support of the pending bill, be printed in the RECORD as a part of my remarks.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

WASHINGTON, D. C., *July 5, 1939.*

Hon. ARTHUR CAPPER,
Senate Office Building, Washington, D. C.:

Undersigned committee, representing 29 national organizations, keenly interested in passage by Senate of Neely motion-picture bill, S. 280. Your assistance in securing enactment of this measure will be regarded as invaluable public service to the youth of America through the preservation of local freedom and responsibility.

Harriet Ahlers Houdlette, American Association of University Women; Helen W. Atwater, American Home Economics Association; Mary E. Leeper, Association for Childhood Education; Sina M. Stanton, Council of Women for Home Missions; Margaret C. Maule, Girls Friendly Society of the United States of America; Elizabeth Eastman, Motion Picture Research Council; Mrs. E. E. Danly, National Board of Young Women's Christian Associations; Mary T. Bannerman, Chairman, National Congress of Parent and Teachers; Agnes Regan, National Council of Catholic Women; Fred Brenckman, National Grange; Izora Scott, National Woman's Christian Temperance Union; Elizabeth Christman, National Women's Trade Union League; Mrs. R. Kirkpatrick Noble, Service Star Legion.

MESSAGE FROM THE HOUSE

A message from the House of Represenatives, by Mr. Calloway, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 6205) to provide for additional clerk hire in the House of Representatives, and for other purposes.

PROHIBITION OF BLOCK BOOKING AND BLIND SELLING OF MOTION-PICTURE FILMS

The Senate resumed the consideration of the bill (S. 280) to prohibit and to prevent the trade practices known as compulsory block booking and blind selling in the leasing of motion-picture films in interstate and foreign commerce.

Mr. KING. Mr. President, the bill under consideration was introduced by the able Senator from West Virginia [Mr. NEELY] and he has with great zeal and earnestness sought to secure its enactment into law. It contains substantially the same provisions as are found in a number of bills which have been introduced in the Senate during the past few years. Former Senator Brookhart, as I recall, offered a measure containing substantially the same provisions. In the Seventy-fifth Congress, my recollection is that the Senator from West Virginia [Mr. NEELY] introduced a bill, the terms of which were almost identical with the pending measure.

Last Friday the Senator from West Virginia delivered, in support of the bill, an able address and the same day the Senator from Maine [Mr. WHITE] presented a strong argument against the bill. The Senator from South Carolina [Mr. SMITH] was compelled to leave the Senate without having full opportunity to present his views. He did submit, however, a short address which was eloquent and persuasive. I was denied the opportunity of hearing the addresses of the three Senators owing to the demands made upon my time by committees of which I am a member. However, I have read, rather hastily may I say, the several hundred pages of testimony taken at the hearings upon the bill and also the addresses referred to. At the conclusion of the hearings a majority report was submitted by the Senator from West Virginia and a minority report by the

Senators from Maine [Mr. WHITE] and South Carolina [Mr. SMITH].

The reports which I have examined present the conflicting views of the proponents and opponents of the bill. After examining the testimony and the reports I reached the conclusion that the bill before us ought not to be enacted into law. In my opinion it contains provisions in contravention of principles and policies upon which rest our industrial and economic system, and also provisions which I believe to be unconstitutional.

It seeks to interfere with legitimate private enterprise and to control and regiment an important industry of our country.

May I say in passing that in view of the importance of the measure it is regrettable that so few Senators had the opportunity of hearing the able addresses made by the Senators referred to. Unfortunately, numerous committees of the Senate are engaged in hearings during the meetings of the Senate, and thus they are prevented from obtaining such information, if not enlightenment, as would result from hearing discussions of the measures receiving the attention of the Senate.

Mr. President, while realizing the importance of free enterprise and the dangers resulting from bureaucratic control and the exercise of paternalistic authority, I have upon various occasions expressed opposition to all forms of monopoly, and a few years ago introduced bills for the purpose of strengthening the antitrust laws. I have for years entertained the view that competition in our economic and industrial life was essential to the preservation of what we call our capitalistic system, and I have insisted that antitrust laws should be enforced.

I approached the consideration of the bill before us with strong feelings against all forms of monopoly, and in the examination of the record I have sought to ascertain whether there were facts developed indicative of monopolistic practices or conduct violative of antitrust laws in the business activities of the so-called motion-picture industry. After such examination, as I have indicated, I have reached the conclusion that no facts were presented which justified the enactment of the bill now before the Senate.

I invite attention to some of the outstanding provisions of the bill. Section I declares that block booking and blind selling are contrary to public policy in that they:

(1) Interfere with the free and informed selection of films by exhibitors and local communities; and,

(2) Tend to create a monopoly and burden commerce.

Therefore, the bill proposes to make it unlawful to lease pictures in a group of two or more, requiring the exhibitor to take the whole group or none; or to offer films individually at such prices, in ratio to the price for a group, that the effect will be to require the exhibitor to lease the entire group or to restrict his freedom in selecting such films as he may desire. It is also made unlawful to transport or cause to be transported in interstate commerce, with knowledge, films that have been leased in violation of this provision.

The bill further makes it illegal to lease or offer to lease a film unless at or before the time of entering into the lease, the distributor supplies the exhibitor with a synopsis of such film, including a general outline of the story and principal characters, and of the manner of treatment of scenes depicting vice, crime, or suggestive of sexual passion.

The Senator from West Virginia [Mr. NEELY], before adjournment last Friday, offered several amendments to the bill. I have hastily examined them; but in my opinion they do not modify the bill in any material respect. They do not remove any of the injustices of the bill or relieve it of its oppressive and, as I believe, unconstitutional features.

The purposes of this proposed legislation, according to the Senate report, are two. The alleged primary purpose of the bill is to establish "community freedom in the selection of motion-picture films." A secondary purpose, as claimed, is to relieve independent interests in the motion-picture industry—producers, distributors, and exhibitors—of monopolistic and burdensome trade practices.

I should like to dispose of this second purpose at the beginning—the argument that block booking and blind selling should be made unlawful because they tend toward a monopoly. There is no denying the fact that the bill, if enacted, will seriously interfere with the freedom of distributors in marketing their films; and, while there is no immunity from legitimate congressional interference, our economy is based upon freedom of competitive enterprise.

May I add that though we are in the grip of powerful bureaucratic forces which impinge upon individual rights and restrict rights of sovereign States, we are not like peoples in some other lands subject to a dictator. I am free to confess, however, that there is a powerful centralizing movement which seeks to reduce the States to shadowy forms, and to concentrate in the Federal Government and its bureaucratic organizations, not only political authority, but the economic control of the Nation. There are Federal agencies which seek to restrain legitimate competition and interfere with the immutable rights which belong to citizens under a democratic form of government.

Unfortunately there are Communists and followers of the philosophy of nazi-ism, who seek to insinuate their views and policies into the political, industrial, and economic life of our country.

We daily witness the extension of Federal authority into private fields of endeavor, and into legitimate industries which are promotive of the welfare of the people. As indicated, socialistic policies are being advocated with no little vigor, not only by individuals and groups, but by agencies and organizations of the Federal Government.

Mr. President, the record, as I have indicated, does not disclose that the practices of the industry which the bill seeks to condemn are monopolistic or tend towards monopoly. If this were so, the persons to be most injured thereby would be the independent producers.

It is conceded that Congress has the power to regulate commerce among the several States, but that is not a grant of power to interfere with legitimate business, to take over and control the lives of the American people, or control and dictate their business activities. There are those who under this clause of the Constitution would superimpose upon business of every form the heavy hand of the Federal Government and inaugurate policies destructive of individual initiative and private enterprise, and which would culminate in national socialism.

The contest here and elsewhere is to preserve free enterprise and individual rights and freedom in all that that word implies. As indicated, strong forces here and elsewhere are opponents of this philosophy. In my opinion the rights of individuals under our form of government are not to be subjected to autocratic or bureaucratic control, and the freedom of individuals is to be curtailed only when it is manifest that the public interest demands, and then, only to the extent necessary to protect the public interest. There is no proof whatever that the policies and practices of those engaged in the motion-picture industry, and which the bill seeks to condemn, tend toward monopoly. If this were so, the so-called independent producers of motion pictures would be most injured thereby.

There are, as I recall, more than 100 such independent producers, and if there were a monopoly by the large producers the independent producers would encounter difficulty in marketing their films. Perhaps I should state that there are the so-called eight large producers against whom apparently this measure is aimed.

Mr. NEELY. Mr. President, will the Senator yield?

Mr. KING. I yield.

Mr. NEELY. It is true, as the Senator has just stated, that there are a number of independent producers; but let me invite the able and eloquent Senator's attention to the fact that Mr. Pettijohn, the spokesman for the so-called motion-picture trust, and general counsel for the Hays organization, as shown at page 27 of the RECORD, testified that the Big Eight distribute at least 85 percent of all the pictures produced in this country. In other words, the trust enjoys

a monopoly in the distribution of American made films—no matter what companies produce them.

Mr. KING. Mr. President, I do not assent to the interpretation which my friend places upon the testimony adduced at the hearings. In my opinion the record does not disclose the existence of a trust, but on the contrary it indicates that there is active rivalry and keen competition among the producers and also upon the part of the distributors. Certainly if 100 or more of the so-called independents do not constitute a trust (and I infer from the Senator's statements that he does not claim that they are a trust) then there is no foundation for the claim that the eight so-called big producers constitute a trust.

As I read the record, these 100 or more so-called independents produce approximately 25 percent of the pictures which are sold, distributed, and exhibited. These producers dispose of their pictures in the same territory and field in which the pictures of the large producers are sold and exhibited. There is no understanding or agreement among the independent producers, so-called, to limit production or to restrict the fields within which they will operate. The so-called "big producers" are competitors in the motion-picture industry. The large producers, so often called by the Senator a "trust," do not, in my opinion, have any of the characteristics of a trust. They are competing with each other and with the independents. Their products are for sale as are the products of the so-called "independent" 100 producers to any person, group, or association desiring to purchase the same. As I read the record, there is great rivalry between the large producers in every branch or department of the industry. There is rivalry and keen competition in the matter of production, leasing, selling, distributing, and exhibiting. Certainly the record does not show any conspiracy in restraint of trade or agreement to monopolize the industry or any branch of the industry. Mere bigness does not constitute a monopoly. The number of automobile manufacturers is limited, and the overwhelming production of automobiles and, for that matter, steel, and many products of industry, is in the hands of a limited number of corporations and individuals. It is true, as indicated by the Senator, that the eight largest producers in the motion-picture industry produce 75 and possibly 80 percent of the films which are released and exhibited by more than 17,000 exhibitors in every part of the United States. I repeat when I state that there is no evidence whatever to indicate that there is any agreement or combination among the eight producers or by any of the producers of the so-called independents, which in any manner affects production, distribution, or exhibition. If the large producers did have monopolistic control of the motion-picture industry, then the so-called independent producers would have experienced the monopolistic power and control of the large producers.

However, if the so-called practice of block booking is to be condemned solely upon the ground that it constitutes a monopoly, then there is no need for the pending measure. If the independents as well as the large producers lease and handle to a large degree their output, and if their practices constitute a monopoly, then they come within the terms of the Sherman Act or the Clayton Act. If the selling of motion pictures in groups or singly, is unlawful, and constitutes a tying restriction within the meaning of section 3 of the Clayton Act, such practice may be forbidden under existing laws.

In the hearings and in the address of the Senator from West Virginia, the word "compulsory" is often used in connection with the words "block booking." As I interpret the record there is nothing to indicate compulsion. Lessors and exhibitors are at liberty to exercise their own free will. If they lease pictures singly or in groups, there is no evidence of compulsion. It seems to me that the proponents of the measure have employed the word compulsory for the purpose of arousing prejudice against the producers, and to attach to any process in connection with the leasing of pictures an opprobrious connotation. It is known that a suit has been brought by representatives of the Department of Justice against some of the producers in which it is charged that the defendants have violated the antitrust laws. May I repeat that if any of the practices of the producers, distributors, or exhibitors are in violation of any Federal antitrust law, then the broad terms of the Federal statutes are sufficient to punish any monopolistic organization. I venture to suggest that pending the outcome of the suit instituted by the Government against any of the producers because of practices alleged to be violative of the antitrust laws, Congress should not enact laws which deal with the same alleged monopolistic practices. It seems to me that by the bill before us we are attempting to indicate to the courts what their course shall be and to shape their decisions to meet certain views, and to give to the Sherman Act a meaning of which it is not susceptible.

An important factor in this connection, is section 3 of the bill which seeks to make it unlawful to sell or lease films by the method called block booking, and which is an elaboration of the words found in the complaint of the Federal Trade Commission against the Paramount Co.—a member of this alleged trust. In that case (brought by the Federal Trade Commission) block booking, so-called, was attacked as a violation of section 5 of the Federal Trade Commission Act, as being an unfair method of competition, and also as being an illegal tying clause under section 3 of the Clayton Act. It was contended that block booking created a monopoly. The courts found otherwise. In the pending bill it is again charged that block booking is a monopolistic practice, notwithstanding the Federal courts, under, as I understand, substantially the same character of evidence as produced before the committee reporting this bill, found otherwise. I repeat when I say that the record in my opinion clearly shows that the practices of the large or small producers are not illegal or monopolistic. The case which was brought by the Federal Trade Commission reached the Federal courts and the facts there disclosed were practically a duplicate, with some elaboration, of the hearings upon the bill under consideration.

Mr. NEELY. Mr. President, will the Senator yield?

Mr. KING. I yield to my dear friend.

Mr. NEELY. Does the able Senator contend that if there is block booking and it results in monopoly, it can be prohibited by existing law?

Mr. KING. My position, in brief, is that the antitrust laws are so broad, and the courts have so interpreted them, that if there be a monopoly or a combination or agreement or conspiracy in restraint of trade, or if there be practices which tend to monopoly or restraint of trade, then if block booking is monopolistic or will result in monopoly, the antitrust laws may effectively deal with the same.

Mr. NEELY. Mr. President, I invite the Senator's attention to a memorandum concerning this matter which was prepared by Judge Stephens in behalf of the Department of Justice.

Mr. KING. I have read the memorandum.

Mr. NEELY. Let me entreat the Senator to permit me to read it for the benefit of other Members who may not be familiar with it.

Mr. KING. I can only say that after it has been read I shall contend that it is not relevant, and further, that I am not in agreement with the conclusion reached by Judge Stephens if that conclusion is that the record before us (and it was not before him) shows that the antitrust laws have been violated by the motion-picture producers.

Mr. NEELY. Mr. President, the memorandum contains the following:

It has been held by the Circuit Court of Appeals for the Second Circuit that where one distributor refused to lease films other than in groups or blocks, there was no violation of the Federal Trade Commission Act, since the distributor of motion-picture films may select its own customers and sell such quantities at given prices or refuse to sell to any particular person for personal reasons without being subject to charges of unfair competition (*Federal Trade Commission* v. *Paramount Famous Lasky Corporation, et al.*, 57 Fed. (2d) 152). In view of this decision, in order to successfully attack such practices under the antitrust laws, it would be incumbent upon the plaintiff to demonstrate concerted action among two or more of the producer-distributors, and because of the type of practices involved, it is difficult to obtain legally sufficient evidence

of a combination among the motion-picture companies to impose such terms on exhibitors. Nevertheless, the practices of block booking, blind selling, and blind booking appear to have curbed independence of action by exhibitors.

This statement by Judge Stephens in which the proponents concur, clearly indicates the necessity for legislation to prohibit block booking and blind selling.

Mr. KING. Mr. President, reference has been made to Judge Stephens. Parenthetically, may I say that I had the honor to support him for judge in my own State and to endorse him for a position in the Department of Justice.

Mr. NEELY. Mr. President, of all the good things the Senator from Utah has ever done, his presentation of this great liberal and humanitarian judge to the American people is the best.

Mr. KING. I will say "amen" to any eulogy which my friend may pronounce upon Judge Stephens. However, sometimes Homer nods, and no judge or lawyer is always right. Many of the ex-parte opinions submitted by lawyers in various Government departments are not entitled to the claim that they are sound and invulnerable. As I interpret the statement read by the Senator, it is not relevant to the issue presented by the bill before us. But if it is claimed that it is relevant, and that it holds in effect that the facts disclosed by the record before us prove monopolistic practices and violations of the antitrust laws, then I feel constrained to dissent from my able and distinguished friend, Judge Stephens.

The weakness of the argument of the proponents becomes apparent in the statement upon which they rely. The contention is that the Congress should declare that block booking and blind selling are monopolistic practices because it is impossible to prove that they are monopolistic. I confess my inability to see the validity of such a contention. In my opinion, if the practice of block booking is monopolistic, it falls within the condemnation of the present laws; if it does not, it is not a monopolistic practice, and I am unwilling to accept the type of proof offered at the hearing as a basis for declaring that the practice is what a competent court found it not to be.

As I gathered from the statement read by the Senator, the view was entertained that the Government had failed to prove its case; i. e., that a conspiracy in restraint of trade had been alleged but that proof was insufficient to sustain the averments. It would appear that the Government contended that the conduct of the defendant company in its so-called block-booking and blind-selling practices constituted a violation of the antitrust laws. The memorandum seems to indicate that the facts did not sustain the charge, that block booking or blind selling, so called, or both, tended to constitute a monopoly.

When indictments are brought against defendants by the Government, the burden of proof rests upon the Government to prove the allegations of the indictment. If the Government institutes a suit against individuals or corporations alleging conspiracy in restraint of trade or monopolistic practices, the burden of proof rests upon the Government to establish the proof of the charges made.

As I have stated, the memorandum read seems to be the contention that the Government failed to prove that there had been an infraction of any antitrust law. Certainly, if the organizations against which the bill before us is leveled are guilty of monopolistic practices and violations of the antitrust laws, then they would be subject to such punishment as is provided in such laws.

As I have stated, the Government has already launched an attack upon the so-called large producers, charging, as I understand, that they have violated the antitrust laws. Apparently the Government believes these acts sufficiently broad and comprehensive to justify the initiation of the proceedings under which they are to be hailed into court. The charges, as I understand, are that the defendants—that is, the so-called Big Eight producers—have engaged in practices monopolistic in character and violative of the Sherman Act.

In the case to which I have referred and which was brought against the Paramount Co., it appears that an investigation was made of the motion-picture industry; and upon such investigation, the Federal Trade Commission instituted proceedings such as they believed were authorized by law. From its findings the case went to the Circuit Court of Appeals for the Second Circuit, and that court found that the charges preferred were without foundation.

Mr. President, permit me to quote a few passages from the court's opinion in the case to which my friend has referred. The opinion of the Circuit Court of Appeals is found in volume 57F, second edition, page 152, decided in 1932:

There is no finding by the Commission that the method of negotiation in block booking, which it condemns, was generally successful in the distribution of their pictures to the detriment of respondent's competitors; nor is there a finding in respect to the existence or absence of free and active competition in the industry generally. The record discloses that the respondent's releases in 1923 were but 12 percent of the total releases, and this shows a decline in percentage since 1919. The small producer or distributor, as distinguished from the larger companies, has not been shown to have been affected by any combination between the large companies.

I repeat what I suggested a few moments ago, that there are at least 100 independent producers, and complaints have not been made by them that they have suffered from monopolistic practices on the part of the eight large producers or that they believe that there is monopolistic control of the moving-picture industry.

Returning to the Court's opinion:

The respondent's sales methods have not been shown to have any effect upon its competitors.

Mr. NEELY. Mr. President, will the Senator yield?

Mr. KING. I yield.

Mr. NEELY. In response to the able Senator's statement that there has been no complaint by the independent producers against the monopolistic practices of the Big Eight, may I not invite his attention to page 9117 of the RECORD for July 14 at which the following appears:

Phil Goldstone, an independent producer of motion pictures and president of the Independent Motion Picture Producers' Association, telegraphed:

"Block booking has gradually killed off and almost eliminated independent production. If independent producers had a fair opportunity to market their product it would cause a complete revival of their industry and the employment of additional hundreds."

I. E. Chadwick, a distiguished producer, who expects the enactment of the bill to enable him to resume activity, says:

"Abolition of block booking will emancipate the independent producer, distributor, and exhibitor, encourage competition and new capital, and reemploy hundreds now inactive and unemployed."

E. B. Derr, an independent producer, says:

"I believe the elimination of block booking is a good thing for the industry in general, and it should surely improve the quality of independent production, as it should open the screens not now available to us for our product."

There are in my possession many telegrams and letters from independents, in protest against block booking and blind selling.

Mr. KING. An examination of the record may disclose that there have been a very few complaints by independent producers; but I insist that there is no substantial evidence to justify the conclusion that block booking has interfered with the independent producers or that any of the practices of the large producers have been other than beneficial to exhibitors, distributors, and indeed to the so-called independents. There are now, as I remember the record, more independent producers than there were 10 or 15 years ago. There has been no reduction in their number, nor has there been any decrease in the output of their production. Indeed, I judge from the record that they have increased their output and have extended their clientele. Certainly, the hearings indicate that some of the persons who, a number of years ago, were trying to obtain the passage of the bill containing substantially the same terms as the bill before us, are still in business and apparently are conducting prosperous operations.

I should add that the so-called independent producers have participated in the same plan of distribution which is followed

by the large producers. In other words, they have joined with the large producers in the method of distributing the films which are manufactured. As to the telegram which my friend read, I venture to say that if an examination were made of the facts, they would indicate that the sender of the telegram has been producing pictures for a number of years and has found no obstacles to the sale of the commodities which he has placed upon the market.

Mr. NEELY. Mr. President, if the Senator will forgive another interruption, Mr. Chadwick's business has apparently been destroyed by the practices of block booking and blind selling.

Mr. KING. It may be that his productions were so unworthy of exhibition that people would not patronize them. The evidence is clear that complaints against some of the productions because they were alleged to be indecent were lodged against films produced by some of the hundred independent producers. So there is nothing to indicate that they have suffered. They are still producing, and are finding no obstacles to the sale or leasing of their pictures. So far as I can understand or interpret the record, there is no justification for their complaints.

Mr. NEELY. Mr. President, there is nothing in the record to indicate that pictures made by Mr. Chadwick were objectionable or inferior in any particular. My information on the point is to the effect that his productions were exceptionally good.

Mr. KING. Perhaps Mr. Chadwick is to be complimented, in view of the statement as to the merit of his productions. However, we are furnished with no facts which would explain the reason for his lack of success.

I repeat what I said a moment ago, however, that the record indicates that the complaints against certain pictures—and I shall not name them, though reference is made to them in the record—were against the so-called independent producers who are found within the list of 100 referred to.

After these digressions, I return to the opinion of the circuit court for the purpose of reading into the record a few additional paragraphs.

> The respondent's sales methods have not been shown to have any effect upon its competitors—the small producers—when the whole field is surveyed, and it is impossible to say on the evidence that the effects of block booking, as practiced by the respondent, or its cumulative effect, as practiced independently by the respondent and others, has unfairly affected competition. On the other hand, it may fairly be said that all persons engaged in the production of pictures have been able successfully to distribute their product. This has permitted fair competition in the industry.

The court further stated:

> A distributor of films by lease or sale has the right to select his own customers and to sell such quantities at given prices or to refuse to sell them at all to any particular person for reasons of his own. * * *
>
> The commission may not interfere with the respondents' attempt to effectively dispose of their products as a whole before entering upon negotiations for the disposition of less than all. Nor is this method of negotiation and sales creative of a dangerous tendency to unduly hinder competition or to create a monopoly. We see nothing in the method of salesmanship involved in the respondents' business which has or can have any dangerous tendency unduly to hinder competition or create a monopoly.

Later on in its opinion, the Court said:

> The evidence in the record discloses that the effect of this method of negotiation has not been to unduly restrain the exhibitor's freedom of choice. It is only a small percentage of contracts made which are for blocks offered. The greater number are shown to be for a few pictures only.

In expressing this opinion, the court was considering the very language that is incorporated in section 3 of the bill under consideration. It must be conceded that a court of justice is the body best suited to determine whether the practices complained of lead to monopoly. There is at present a suit under the Sherman Act, filed by the Department of Justice, against the major companies in the motion-picture industry. This complaint alleges that block booking is a violation of the antitrust laws. In my opinion, Congress should not legislate upon this question during the pendency of that suit. Why should the proponents of this measure be so anxious to declare that block booking is unlawful when the court, through regular judicial procedure, is determining that very issue?

It would seem that the desire is to secure a legislative declaration, which would, in effect, attempt to overrule the Circuit Court of Appeals. The court in that case determined the issue adversely to the position taken by the proponents of the bill. Is it, perhaps, because of a fear that the practice of block booking will be found by the court not to be a monopolistic practice—a finding after a review of the complete evidence connected with the controversy? If there is such a fear, should Congress, without the evidence which a court of law can have presented to it as to whether this practice leads to monopoly, declare that the practice does this, and thus remove the issue from judicial tribunals, or, at any rate, impose its views upon the court so that the court might be constrained, if not coerced, to adopt the legislative declaration with respect to certain practices? Manifestly, that should not be done.

The Department of Justice alleges that the practice of block booking suppresses competition. That is the suit to which I have just referred. The industry denies it. The court will not be content with mere allegations—allegations which are now put forward as a basis for the action of Congress on Senate bill 280. The court will ascertain the facts as to just exactly what effect block booking does have. There is no sufficient evidence upon which Congress can base a just and intelligent decision regarding this question, or make a finding that block booking contravenes the antitrust laws. In the absence of sufficient proof on one side or the other—and by "proof" I mean something more definite than the statements of conclusions by the proponents of the bill, or any of the witnesses appearing in behalf of the bill—I am not willing to pass judgment upon a matter that is now pending determination before the courts of the country.

Mr. President, the minority report on this question at page 3 is as follows; and I think this statement, coming from the Senator from South Carolina [Mr. SMITH] and the Senator from Maine [Mr. WHITE] of the minority upon the committee, deserves consideration. They state:

> Moreover, the charges of monopolistic and burdensome trade practices are subject to proof in the courts, which have adequate facilities for weighing evidence and testimony of this nature and the power to correct any abuses found, and such charges and complaints are being tried in court actions constantly. It is not contended that the present laws are defective to prohibit monopolies.

Those connected with the producing and distributing of motion pictures deny any monopolistic practices, and they allege that the enactment of this bill will not abolish monopolistic practices, if there are such; but will, upon the contrary, tend to monopoly. I shall refer presently to the adverse effect upon the small exhibitors of motion pictures which the record shows will follow the enactment of the bill. The Department of Justice in its suit is attacking the practice of producing companies' owning or operating their own theaters. It is the view of many persons that the enactment of the pending bill will increase the percentage of theaters that are owned and controlled by producing and distributing companies. There is reason to believe that this result will follow the penalties that are imposed upon distributors by the terms of the bill.

I shall say more in a moment as to the uncertainty that this bill will place upon the distributor of motion pictures—uncertainty as to whether, in offering to lease a film at a certain price, he will be haled into court as a criminal. Due to the vague standard as to whether he is violating the law, he will be taking a chance every time he offers to lease a picture singly at a price higher than that picture would cost in a group. There can be no minimizing the chance that he will take, nor the fact that he will not know in any instance whether he has violated the law.

What will the result of this uncertainty be? If the producer-distributor owns the theater, he does not lease to himself, and so he does not take this chance. In other words, the chance of being a criminal is not present if he merely supplies his own theaters with films. It seems, therefore, that

the direct result of the enactment of this bill will be to increase the percentage of theaters that are owned or controlled by the distributors and producers. In other words, the alleged evil that is receiving attention at the hands of the Department of Justice will be aggravated.

It is difficult to understand how the charge of monopoly can be sustained.

So far as the record shows, there is absolutely no combination or conspiracy between the large producers, or, for that matter, between the hundred small producers. Each is independently engaged; and there is, as I have indicated, intensive competition between the big producers and the little producers, between the little producers as against themselves and against the big producers, and between the big producers as against each other. There is no claim that the so-called Big Eight have entered into any combination or conspiracy in restraint of trade. The theater-owning exhibitors are in keen competition one with another. Surely no monopoly exists there. There is no evidence that the independent producers have any difficulty in marketing their films; and it is important to remember that the system of marketing or distribution is what is under attack in the pending bill. If the method of distribution does not adversely affect the independent producers in distributing their products, it seems strange that that method should be characterized as monopolistic and burdensome. If there is a monopoly, or if monopolistic and burdensome practices are being used, existing laws are surely adequate to cope with the situation. Indeed, they are being exerted at the present moment. And if practices not now deemed to be monopolistic are to be made unlawful by legislative declaration, in my opinion that declaration should be supported by conclusive evidence that the practices are contrary to some definite public interest. That evidence, from all that I can learn from the record, is lacking in this instance.

THE UNCERTAINTY OF THE MEASURE

The provision in the bill under discussion which is most objectionable is found in section 3. After providing that it shall be unlawful to require an exhibitor to lease a group of pictures, it is provided that the distributor cannot offer the films individually at such prices, in relation to the lump-sum price for the group, "as to operate as an unreasonable restraint upon the freedom of the exhibitor to select and lease" only such films as he may desire, or as tends to require him to take the group instead of individual pictures.

This provision is utterly indefensible. It requires a distributor to project himself into the mental operations of the exhibitor, to endeavor to ascertain whether a certain price quotation will operate upon such a mind as to restrict its freedom of choice. It calls for metaphysical research, for a psychological investigation. We are to project ourselves into the mind of the person making the lease and the person obtaining the lease to determine whether certain influences exist or do not exist, and the weight those influences may have upon the determination of the choice.

There can be no disputing the fact that there is economy in mass selling. That is recognized in all lines of business. Surely a distributor can offer pictures at a cheaper price if he sells 40 in one contract than if he must negotiate separate contracts for each picture. Keeping in mind the fact that there are 17,000 or more houses in which pictures are shown, to sell singly, or to attempt retail dissemination of the product, would compel such enormous expense as to result in bankruptcy of some of the producers. It now costs 26 percent of the gross receipts for the machinery and the execution of the same involved in the distribution of the films which are produced.

The sponsors of the bill acknowledge that some price differential between group and single leasing is justifiable. Just when does that price difference become such as to restrain the exhibitor in his freedom of selection? What test is to be used? The bill sets no standard. And it must be remembered that a distributor who is found to have unreasonably "restrained" the exhibitor's freedom in this respect is a criminal and is subject to a $5,000 fine, or a year in prison, or both. How can an honest, conscientious, businessman conduct his affairs under such a threat for violating such an indefinite standard? How is a distributor to know whether his price quotation will "tend to require the exhibitor" to take the entire group? Is not the very essence of mass selling the fact that savings are offered to the buyer if he will buy more at a lower price than he would otherwise have bought at individual prices? Is not every wholesale price offered as an inducement to buy more and avoid the higher retail price? Under the pending bill, just when does this inducement become criminal?

If that policy and principle were applied in the business activities of life between wholesalers and retailers in the sale of the commodities of our great manufacturing plants, there would be chaos and destruction in our industrial life.

I digress for a moment to submit an illustration of the effects if the policy referred to were applied to other activities. I recall as a boy the method employed in disposing of animals for slaughter. Several hundred would be gathered and driven from the ranges to eastern markets.

I recall upon one occasion when we were driving a herd of animals to market, a number of purchasers were encountered. Some of them desired to make selections of the best and most suitable animals for immediate slaughter, and offered much better prices for each of the selected ones. We declined to sell under a selective process, because we believed it would not be advantageous, and that after the best animals were selected from the group, the residue would bring a very much smaller price per animal. Accordingly, we disposed of the herd en bloc, receiving an average price for each animal that was less than we would have obtained for the selected animals, but the same price for the entire herd.

Returning to the minority report, it proceeds as follows:

> It would appear to be an obvious fact that motion pictures which are licensed in groups may be more economically licensed at lower prices than those which are licensed singly. It would also appear to be obvious that there is a variation in the position in which various exhibitors are placed in determining whether in their business judgment they can afford to pay more for certain motion pictures separately than when purchased in combination with other motion pictures, and that how much more they could afford to pay would vary with each exhibitor and with each picture. Some exhibitors might believe they could afford to pay 150 percent in excess of the wholesale price for selection of a choice picture. Others might believe that they could not afford to pay more than 25 percent or even 10 percent. It is obvious, too, that the increase which a distributor may in the first instance ask for, and more or less insist upon as to separate pictures taken out of a group, would depend upon the ability of the distributor's salesman readily to sell the pictures not taken by other theaters in the same area and would depend also upon the varying numbers which the exhibitor offers to take or accepts. A quotation on separate individual pictures is indicative that the salesman is attempting to conclude a transaction.
>
> How then could a salesman ever know that the price at which he at first offers or later insists upon as a condition of agreement for an individual picture in relation to the prices for the picture offered in a group, is such a price as makes his conduct a crime?
>
> No matter how honestly or carefully a salesman would weigh these very circumstances in each individual case, he could never know that he had not violated the law as long as he offered a motion picture separately at a price higher than such motion picture in a group.
>
> Can any salesman ever be sure that the prices he quoted were such that the exhibitor felt himself free from restraint to select only such films as he may desire and prefer? Does the exhibitor himself know definitely and surely that fact? Can the salesman get into the exhibitor's mental operations to know which he desires and prefers? What makes the exhibitor desire and prefer motion pictures to be exhibited to the public as entertainment for profit, if not mainly the profit that the exhibitor believes may be derived from such exhibition, a factor which is dependent in good measure upon the price at which he is able to conclude a deal for a picture? Moreover, even if the distributor's salesman should feel finally that he has offered a price which gives the exhibitor absolute freedom to take those which he desires and prefers, can the salesman ever be sure that the price he has quoted did not tend to substantially lessen competition or tend to create a monopoly in production, distribution, and exhibition of motion-picture films? This would be a rule of law which no salesman could safely know is not being infringed by the prices he quoted at the time he was trading with an exhibitor for a deal as to number and prices of motion pictures to be mutually agreed upon between them.

Let us look at this situation in other industries. A man enters a grocery store, intending to buy three grapefruit. He is quoted a price—three for a quarter; but the proprietor announces that if he buys a case of grapefruit, he will be buying them at a rate of about five for a quarter. The purchaser

regards this as a good bargain, and leaves the store with a case of grapefruit. Was it wrong for the vendor to offer to sell him a larger quantity at a lower price than for the quantity he had originally intended to purchase?

Mr. NEELY. Mr. President——

The PRESIDING OFFICER (Mr. LEE in the chair). Does the Senator from Utah yield to the Senator from West Virginia?

Mr. KING. I yield.

Mr. NEELY. The Senator's illustration is impressive, but I hope that he will pardon me for observing that it is not applicable; additional factors should be included in the hypothesis. For example, the principle of block booking in the grocery business would operate in this manner. When the Senator's hypothetical customer asked the grocer for grapefruit the latter would have replied, in the language of the moving-picture producers, I have grapefruit, but in order to obtain it you must buy a quantity of everything else in my store—regardless of its quality, utility, or price. In such case, the grocer would be treating the customer as the Big Eight treats the motion-picture exhibitors.

In the circumstances, is it surprising that the independent exhibitors and their patrons demand legislative relief from compulsory block booking?

Mr. KING. Mr. President, I do not concede the parallel invoked by the Senator from West Virginia. A distributor of motion pictures sells only one product; namely, films. To be sure, there are good and indifferent individual pictures, but they all constitute one type of product. A grocer, in selling a crate of grapefruit, may not offer grapefruit of the same quality; some may be good, others inferior. But, the purchaser, in buying the crate, takes the inferior with the choice, and in so doing avails himself of the lower price. The analogy is apparent. An exhibitor is not required to take a different type of goods in order to get pictures. He wants films, and films are all he is required to take.

In answer to the statement of the Senator from West Virginia that the independent exhibitors demand legislative relief from block booking, may I say that in a moment I shall refer to the fact that at least one association of motion-picture exhibitors, numbering some 5,000, testified at the hearings as being opposed to the pending measure.

The conduct of the grocer should not be regarded as criminal. And that is just what is proposed by the bill under consideration, in the motion-picture industry. If inducing a prospective purchaser to buy more at a lower price than he otherwise would buy is to be regarded as restricting the purchaser's freedom of selection and is to be made criminal, then, indeed, every seller of merchandise restricts the buyer's freedom of selection and would be liable to criminal sanctions if the policy embodied in this bill should be extended to trade in general.

THE CIVIC ORGANIZATIONS SUPPORTING THE BILL

Much is said by the proponents of the bill concerning the great number of civic organizations which urge its enactment. The report, in listing these organizations, states that "Rarely, if ever, before has purely remedial legislation received such widespread public support." Surely there can be no quarrel with the ideals of these groups. Their sincerity is not questioned.

In my opinion, however, their approval of this bill is based upon an approval of its stated purposes and upon a belief that the bill will bring about the production of better pictures, rather than upon a study of the manner in which the bill, if enacted, will operate.

It is claimed, among other things, that there is no community freedom in the selection of motion-picture films, and that compulsion and coercive tactics are employed to secure markets for the products of the industry. It would seem that there has been an attempt to color, and indeed distort, the situation, and to mislead as to the true situation and the achievements of those who have led the way in the establishment of one of the great industries of our country—an industry which has met the demands of more than 80 millions of people each week. I submit that the facts do not justify the claim that the purpose of the bill is to establish community freedom in the selection of motion-picture films. Such freedom now exists, and no industry exemplifies more of the spirit of democracy and home rule and freedom of competition than the motion-picture industry.

I might add that the term "Community freedom," used by some of the witnesses, seems to have been a sort of a slogan, and to have been a basis for the views which they expressed, or at least it influenced them in the conclusions they reached.

My impression from reading the statements of these groups is that they are influenced by such remarks as "The bill is founded upon the American principle of home rule," quoting from the majority report. Most of these organizations, if not all, have actively aided in the elimination of what they regarded as improper pictures. Their work has been of benefit to the industry. They claim that the bill now being considered will further their endeavors and raise the tone of motion pictures still higher.

I cannot believe, however, that they have considered the effect of the bill in practical operation. They admit that there is nothing in the bill which requires the production of better films. "Better pictures will naturally follow freedom of selection," is their argument. But they do not consider the position of the distributor if this bill becomes law, trying to arrive at a price at which to offer his product which will not place him in jail, his only guide being whether his prices will so affect an exhibitor that he will feel bound to buy a group of pictures rather than only a few.

These groups seem to minimize the fact that many of the highly objectionable pictures from their point of view are not distributed by the eight leading companies, and are not leased as part of a block. It was pointed out during the hearings that the most objectionable type of sex and vice pictures that have been produced have been sold one at a time and not in blocks. There was no contradiction of the statement that this type of picture is not produced or distributed by the eight big companies. They are produced by small, independent producers who cater to a taste that, unfortunately, exists to some extent, and which is very objectionable to the civic and educational organizations supporting the bill.

Mr. NEELY. Mr. President, will the Senator yield?

Mr. KING. I yield.

Mr. NEELY. Does not the able Senator know that the pictures in which a certain woman starred are said to have been responsible for the formation of a League of Decency to protect theatergoers against the obscenities of the screen and that these pictures were made not by an independent producer but by one of the Big Eight?

Mr. KING. Apparently the Senator from West Virginia desires to condemn the large producers because the pictures of a certain person proved attractive. We must recognize that the tastes of all persons are not alike. There are many exhibitions of prize fights, brutal wrestling matches, and pictures of a rather low order, which attract a large number of our citizens. Undoubtedly, there have been pictures exhibited that were offensive to people of refinement and good taste. As stated, there are more than 17,000 exhibitors, and I think that the record will show that the pictures most offensive and characterized as being most obscene are produced by some of the 100 so-called independent producers. At any rate, much as we might desire that all pictures possess the highest artistic and moral quality, our experience demonstrates that that desirable standard has not been reached. The record shows that some pictures of the highest quality are canceled by exhibitors in order to exhibit pictures of a lower standard.

I recall that some of the testimony indicated that a gangster picture was received with wider acclaim than pictures which met the highest standards of excellence both in theme, production, and in the moral and spiritual lessons which they taught. It has taken years to build the motion picture industry, and as one of the witnesses, Mr. Charles C. Pettijohn, stated, in substance, there have been important improvements in the industry; pictures have been taken from what he called the "peep show" business shown in shops and restaurants, and developed into an

industry which provides enjoyment and entertainment for millions of Americans.

As I recall his testimony, it was to the effect that notwithstanding the tremendous expenditures in the production of the highest grade of pictures, under the present system and within 30 to 60 days after the first exhibition, they are available for exhibition to the smallest theaters and in the most remote parts of our country at a rental of from $5 to $10.

There are organizations in various parts of the United States in which men and women of character and standing in their respective communities are cooperating with the motion-picture industry for the purpose of improving the public taste and eliminating the exhibition of improper or undesirable pictures. These organizations, I believe, realize that the enactment of the measure under consideration will not prevent the making and showing of some types of pictures that do not meet standards which should be maintained. I think the record proves that the most offensive pictures exhibited are produced by the independent producers, and are sold or leased to whom they please, in blocks or singly as they desire. The demand for these films will perhaps exist so long as does the taste for them. And just so long will the demand be satisfied even if this bill were enacted into law. The Senators, in their minority report, stated:

> It appears from the testimony that many of the organized public groups who have been persuaded to endorse the bill relied entirely upon this statement of purpose without attempting to analyze or understand the enforceable sections of the bill upon which the carrying out of these purposes depend. It is not surprising that these earnest people should be in favor of the stated purposes of the bill, set forth in the first section. It is our responsibility in voting upon the bill to examine the more important sections, however, that will be applied to this industry under the penalties of the bill.

Some groups are supporting this bill upon the theory that it will bring about what they call "community freedom", in the selection of films. They object to so-called block booking because when they go to a local exhibitor to complain about a certain picture that is being shown, the exhibitor in some cases says, "I can do nothing about it. I am forced to take all these pictures; and having taken them, I must play them or lose money." It was repeatedly brought out at the hearings that this answer is merely an alibi—the easiest way to answer a group of public-minded citizens. The facts, as presented at the hearing, show that the exhibitor is not forced to present objectionable pictures.

In the first place, the exhibitors have between a 10- and 20-percent cancelation privilege, depending upon the prices they pay for their pictures. That is, the exhibitor will contract for the entire block of pictures which one company will produce during the following year. When they are actually delivered, he may exercise the right of rejecting 10 or 20 percent of such films for any reason he desires. And he is not required to pay for films rejected.

As an added element of freedom in selection, a new trade-practice code, which is being promulgated by the producers-distributors at the present time contains another cancelation privilege. It is provided:

> An exhibitor shall have the right to exclude from any license agreement any feature which may be locally offensive on moral, religious, or racial grounds.

Mr. NEELY. Mr. President, will the Senator yield?

Mr. KING. I yield.

Mr. NEELY. Mr. President, the Senator has been very indulgent, and I thank him sincerely for his generosity in yielding. May I call his attention to certain language that appears in the record on the subject of the so-called cancelation privilege. I read, with the eminent Senator's permission, from an article by E. E. Witte, which was carried in the Catholic Digest for September 1938, as follows:

> It has always been believed that if a theater owner did not like his block of pictures he could cancel 10 percent of them. Let it be stated, however, that the 10-percent cancelation privilege is a fiction. According to the motion-picture code, exhibitors are allowed to cancel 1 picture in each group of 10. The code, however, does not allow the exhibitor the right to reject 4 or 5 pictures in one group of 10 and leave the remaining groups of 10 to be played in order. Thus the privilege may be defeated by the simple device of putting all the poor pictures in a particular group of 10.
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> That is one way of circumventing the cancelation clause. Another way is to make the cheap, quick pictures first. On these the producer knows quite certainly that cancelation will be used. When the movie houses have exhausted their right of cancelation only then will the other pictures be released, some of which may be in class B or C. But at this point your theater can do nothing about it as its right of cancelation has been used up.
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> It seems that the little-theater owner has certain grounds for complaint against the big producer.

The excerpt just read may be found at page 165 of the Senate hearings.

Mr. KING. Mr. President, I am not familiar with the matter stated in what has just been read by the Senator from West Virginia, but my information from Mr. Kent and those who testified is in harmony with what I have stated, that the new code will permit cancelation of from 10 to 20 percent, and in addition, where pictures are immoral or are regarded as obnoxious, cancelation would be permitted in addition to the 10 to 20 percent of cancelation.

The new code of trade practices appears in the hearings. On page 218 this provision of the code is found:

> Exclusions shall be made proportionately among the several price brackets provided for in the license agreement; but any number of exclusions to which an exhibitor is entitled may be made from the lowest price bracket.

On the same page is an example which indicates the interpretation placed upon the provision and in my opinion supports the views which I have just expressed.

Mr. NEELY. Mr. President, will the Senator yield?

Mr. KING. I yield.

Mr. NEELY. Does the Senator know that the independent moving-picture exhibitors of the country met in convention at Minneapolis 4 weeks ago, carefully considered this so-called code, and by resolution rejected its proposals in their entirety; and that a reason for the rejection was that it appeared that the producers intended to exact higher rentals from the exhibitors in return for the limited additional cancelation privileges proposed?

Mr. KING. Mr. President, I do not know anything about the resolutions referred to, but if I correctly interpret the statement of the Senator, the action of those present was based primarily, if not solely, upon the ground that it was understood that the producers intended to increase the rental prices for pictures leased to exhibitors. It would seem, therefore, that those present regarded it as a fact that the cancelation privilege of from 10 to 20 percent had been accorded to exhibitors, and that there was no sufficient justification for whatever action they took.

This right is in addition to his cancelation privilege of 10 or 20 percent for any reason. Under this exclusion clause, what greater freedom on the part of the local communities could be desired? Any exhibitor may reject any picture upon moral grounds. Does not this squarely meet the objections raised by the various civic and educational organizations to the so-called block-booking practice? My understanding is that these groups object to pictures which may have a deleterious effect upon their children—pictures dealing with sex, vice, and crime. It seems obvious that any picture which offended the taste of these organizations upon such grounds could very well be excluded upon the ground that it was contrary to local morals. The provision allowing cancelation on moral grounds would seem to answer the objections of these groups and destroy the alibi which has been attempted by certain exhibitors.

Motion pictures, like all entertainment, by their very nature invite criticism. With the continuous stream of films that pours out of the studios all year, it is not surprising that anyone can easily find items that he or she may dislike, the number and proportion of such items depending upon personal taste and critical attitude as much as upon the quality, artistic standards, or popular appeal of the motion pictures. Despite the criticism of individual pictures, there was agreement by all who testified at the hearings that there has been remarkable improvement in the moral, edu-

cational, and artistic qualities of motion pictures during the past 8 or 9 years.

During the past quarter of a century there have been remarkable developments in all industries. This age by some has been called the Machine Age. That term is too restrictive; this has been an age of scientific development and of great intellectual and artistic development. The arts have made their contributions to the moral and intellectual and spiritual awakening of the people. There has been a remarkable flowering in literature, in music, poetry, painting, and in those movements which have given to this period a proud preeminence.

The motion-picture industry has made its contribution to the intellectual, educational, and cultural development of the past and present generations. With all of its imperfections, it has furnished wholesome entertainment to millions; it has stimulated thought and inquiry; it has associated itself intimately with what might be called the fine arts and the artistic spirit of the world. It has brought to the people the great dramas of life and the most important historical events and many of the greatest figures in history. It has brought to us not only visions, but also the equivalent of realities. It has brought to us not only pictures, but reproductions of the lives, habits, and customs of the peoples of the world. It has indeed been a democratic force which has contributed to the leveling of international barriers and the removal of unfounded racial prejudices and the development of a broader and more catholic spirit promotive of world fellowship.

And in a material way it has added to the wealth and prosperity of our country. Not only hundreds of millions, but billions of dollars have been expended in this great development. It now brings to the people approximately a billion dollars a year, of which between six and seven hundred million dollars are expended in local communities throughout the United States. The record shows that this is the fourth or fifth greatest industry in our country, employing approximately 300,000 persons.

The record shows that various organizations, including guilds and the American Federation of Labor, are beneficiaries of this industry, and are in opposition to the bill under consideration. There are many statements in the record from men and women of character, and from various walks of life, expressing their appreciation of the accomplishments of this great industry and registering opposition to this measure which, they contend, would prove disastrous to an industry of such magnitude and such widespread benefits.

Referring again to the development of the industry, it may be said, I think, that its growth and improvement have been, in part, due to the active work of public organizations, among them the so-called Legion of Decency. The majority report (p. 15) lightly puts aside the results of these labors with these words:

> Experience as recounted at the hearing teaches that, as a rule, such reforms are sporadic, are always forced by outbursts of public indignation, and are usually of short duration.

In this manner, coupled with the voluntary cooperation of the industry itself, as appears from the testimony at the hearing, and as illustrated in the trade-practice code, it is evident that the American people will, or at least should be, protected against the exhibition of improper pictures.

It is rather singular that the proponents of the bill, basing so much of their argument upon the support of such bodies, regard their work so lightly and seem to think that their good will be of short duration. In my opinion these groups, supported by public opinion in America, will uphold the standards of the motion pictures and will carry them to still higher levels.

Mr. President, a distinguished member of this body—the junior Senator from California [Mr. DOWNEY]—appeared before the committee reporting this bill and made a statement which, because of its comprehensiveness and sanity, I feel, should be brought to the attention of the Senate. I shall take the liberty of reading his testimony.

> I want to say that as to certain issues presented by this bill I speak with a great deal of reservation, because I know, Senator NEELY, that you have very patiently and exhaustively listened to testimony here covering every phase of this bill and you know a great deal more about it than I can hope to know at this time.
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> There are certain phases of this discussion, however, in relation to which I have very definite feelings, and if you will pardon me, I will make a few remarks so that you may understand why it is that I do believe I speak with some authority. I am fortunate enough to be the father of five children.
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> My oldest son is now practicing law, and my youngest daughter is 12 years of age. We have been rather enthusiastic movie fans, and with my wife and five children, I suppose we have probably attended almost as many movies as any other family in the United States, because we have enjoyed the shows that have appeared.
>
> We have used a certain amount of discrimination, it is true, in taking our children to the movies, but I am positive in my own statement that in spite of the fact that my children have seen a great many movies, they have grown up just as normally and just as well and just as highly moral as they would have grown and matured if they had not seen any movies.
>
> Ten or fifteen or twenty years ago we did see a good many movies, either with or without the children, that were offensive. Occasionally we now see certain movies that I would rather not see produced, but, Senator NEELY, I am very, very positive in this statement: That in the last 5 years there has been a tremendous turn of the films away from indecency and suggestive features that we should not see.
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> I am not urging here that the movies are perfect. Far from it. Man is not perfect. I would say, however, that compared with the radio and compared with the comics which appear in the papers, the movie is in the lead.
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> I notice that when it is desired to suggest in the movies some situation concerning sexual relationship, or something of that kind, it is suggested in a subtle way so that the young person does not perhaps understand its implication, so that it has only a meaning for the adult. But I cannot recall that in the last 2 or 3 years I have accompanied my children to a single picture that I would regret their having seen.
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> When I was present here the first day of the hearings I heard Mrs. Bannerman, who is very ably leading this fight, read from some critic in New York who stated that out of the first 50 films issued this year only 10 were first class and only 5 were memorable. I suppose, Senator NEELY, that out of 50 books or magazine articles or speeches or even sermons it would be difficult to find 10 first-class ones and 5 memorable ones.

I agree with that statement. I wonder if some of the moralists desire the motion pictures to be more perfect than our preachers, our writers, or the radio, and to set an example in moral and spiritual development which would be imitated by all.

Nearly all the pictures exhibited by the so-called Big Eight motion-picture organizations are reproductions of books which are either best sellers or have won their way in critical circles and among those who have high moral and spiritual concepts. As we all know, there will soon be produced a motion picture based upon a great book written by a southern woman. Undoubtedly, there will be some criticism of it for various reasons; but it will give to the American people a picture of the South during a tragic and dramatic era, which picture will be indelibly impressed upon their minds.

Mr. NEELY. Mr. President, will the Senator yield at that point?

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from West Virginia?

Mr. KING. I yield.

Mr. NEELY. Mr. President, in response to the distinguished Senator's statement relative to the high quality of the moving pictures which he has seen, let me invite his attention to page 9119 of the CONGRESSIONAL RECORD for July 14, on which appears the following quotation from the May 13, 1939, issue of Harrison's Reports—a moving-picture trade paper:

> Let us glance at the crime pictures that have been reviewed in Harrison's Reports since the first week in January: In the 19 weeks since the first week in January, 142 pictures have been reviewed. Of these 82 * * * have been founded on some kind of crime theme—either murder or stealing. Of course, not all of them are demoralizing—perhaps one-third of this number is harmless; but when one takes into consideration the extraordinary high percentage of vicious crime pictures, one wonders whether the Hollywood producers realize what the outcome may be.

Mr. KING. I would prefer to have the Senator's statement appear at the conclusion of the statement made by the Senator from California [Mr. DOWNEY]. Undoubtedly, pictures have been exhibited which depicted crime. For

that matter, the daily press of the country contains descriptions of crimes, as well as pictures of various criminal acts, from simple assaults to homicides.

The record discloses that there have been exhibited pictures of crimes by those in the motion-picture industry, but as I have stated, and the record clearly supports this view, there has been great improvement in the industry, and the number of pictures which are obscene and of a low order has greatly decreased.

I have commented upon the fact that there have been pictures of crimes which have been exhibited even in the very best parts of the United States in preference to pictures of a high moral and artistic value. It is said that human beings are imperfect, and they may not rise to great ethical, moral, and spiritual heights as rapidly as might be desired. Reformations do not come overnight. They belong to the evolutionary processes of life. The churches themselves have discovered the weakness of the flesh, the infirmity of the people, and the lack of understanding of many of the great moral, ethical, and spiritual things of life. We read that churches in various parts of the United States are losing their supporters, and some are being abandoned. Notwithstanding the constant efforts of the churches and of our religious leaders to lead the people from materialism to higher forms of spiritual life, it is discovered that their efforts do not always meet with success. It is the work, not of years, but perhaps of centuries, to emancipate man from the drab materialism in which he lives. It is a long struggle to reach the heights of spiritual power and the realization of the benefits and results of true religion.

I return to the statement made by Senator DOWNEY, which is more interesting than anything I might say.

He states:

I am, myself, amazed at the number of good pictures. I know that I would feel a marked sense of inadequacy if I had to produce a good film. I think it requires tremendous talent, genius, and ability to produce a great film. It is not amazing to me that perhaps only 1 out of 10 becomes a memorable film. It is amazing to me that within 30 years, a totally new industry has come to be one of our greatest industries.

It is, I may add parenthetically, the fifth greatest in the United States, furnishing employment to nearly 300,000 people and distributing, directly and indirectly, more than a billion dollars among the people of the United States.

In the history of the world we have not had a similar development in any art.

I recently saw the picture Alexander Graham Bell, a truly great film which in a great way portrays the life of Mr. Bell and his struggle to bring the telephone patent into existence.

Senator NEELY, let me suggest this. If, as I think would be conceded by almost any parent with whom I have talked, the movies at the present time are improving their output from the standpoint of standards of morality, should not serious consideration be given to leaving it in their hands? Is it tremendously difficult for any government to impose a censorship upon art and to secure a better or a more moral output through that sort of censorship.

The work which Mrs. Bannerman and her groups have done has undoubtedly been a strongly motivating influence in helping to produce cleaner and better films; but when it is hoped that by changing a business arrangement between producers and exhibitors you will increase the value and the morality and the art of the film, I do not believe that is possible.

I cannot conceive how our films are going to be made any greater films or any better films because we compel the movie producers to desist from certain business practices that their opponents call monopolistic. As far as I can see, the exhibitor is going to continue to give the people what they want; and the people are going to continue to want the same class of films that they have right now. It is my opinion that in many cases the movies do not produce a certain class of films that they should not produce, and yet those films would undoubtedly appeal to large segments of the theatergoing public.

I think when it is suggested that this change of business practice would produce a more moral and a more intellectual film, it is non sequitur. I think the people who are championing and aiding this movement are being led astray by their own idealism and their own concentration upon this problem, and I would venture this prediction, Senator NEELY, that if this bill should become a law, looking ahead 5 years you would not find the films any better than they are right now or than they would be by the natural evolution of time.

I have no doubt that these hearings probably have had a very fine influence, regardless of what the ultimate outcome of the bill may be; but in California, at least, we are convinced that the leaders in the movement are now doing everything humanly and practically possible to produce films that can be financially produced and be acceptable to the public with the very highest standard and quality.

As I understood from the testimony offered here, perhaps the chief argument offered for this bill was that by freeing the exhibitor from the compulsion of taking certain films he would choose a better class of films, and that would compel the producers to produce better films. I just cannot agree to that. I do not believe that is human nature. I can do nothing more than to express my opinion upon that one phase.

But let me repeat that I cannot conceive that this Neely bill would result in exhibitors demanding of the producers and the producers giving any higher class or more morally acceptable films than they now give.

I have been a practicing lawyer for 30 years. During that period of time I represented many families whose children were in trouble. I suppose that possibly 50 or a hundred children, in families which I represented, had committed some overt act of a criminal nature. I do not remember any one of those cases in which it was ever even thought or suggested by the parents that any bad influence came from the moving pictures and demoralized the child. I know that there must have been weak and defective and diseased juvenile minds going into a movie theater who did receive, and perhaps act upon, improper suggestions. But let me point this out to you: A child of that kind would receive some suggestion that would drive him astray anyway. Among all of the children in the families that I have known I have yet to find one parent who has ever suggested to me that his child had been morally hurt or his life deleteriously affected by anything that he has seen in the movies.

My children, at least, when they attend the movies, do it more as an escape from reality.

Senator NEELY, I watched my boy the other night while he listened to the March of Time, describing the threat of dictators over in Europe. I saw him sit there with a grave and a concerned face, because that was reality to him. He was listening to the accounts of battles and of dictators, something that might plunge the world into war and him along with it. I never see that effect in the movies. In 15 or 20 or 30 minutes after my children have left the movies, any transient influence that the movies might have had upon them has passed away. And I think that in speaking of my chilrden I am speaking of generalities. I know that you can pick an exceptional case. I know that you can describe that case in a certain way so that the impression is left that the movies do have, upon certain of the weaker minds, a tremendously unhappy influence. My experience, however, which has been rather wide, does not prove that or find that to be true.

Speaking upon the other phase of it, I would rather say this. I do not know very much about the exhibitors' complaint, how righteous it is. My principal information comes from Robert Montgomery who talked to me about an hour the other day. He did make out a very strong case for the producers and he did convince me that this bill would tend to disrupt and interfere with production and might result very unhappily for many of the producing companies.

Senator NEELY. Senator DOWNEY, he testified before this subcommittee at length and doubtless told us all that he told you. Do you think that his remarks should be repeated?

Senator DOWNEY. I am not going to repeat that, because you have heard all the testimony. But we in California have watched the movie industry develop over 30 years. We have heard a great deal of gossip and maligning of producers and actors. My personal observation is that they are a very fine crowd of people. I have watched the movie actors out on the sets. They have a tremendously hard job. Do not let anyone tell you that those men who have won stardom and fame, and the producers and writers, also, are not tremendously hard workers. They are. I think they have done a tremendously great work in producing art and recreation for the American people. More than that, I think that the effect of our California movies and the other movies in the United States upon foreign lands is a tremendously helpful one for the American people. Thirty years have gone into the building of a great industry out there on the Pacific coast; and it is my opinion, based, as I say, largely upon what Mr. Montgomery and other people have said to me recently, that this new proposed Neely bill, in breaking down existing standards and substituting nothing in their place, may very seriously and deleteriously affect the movie production.

If this matter goes onto the floor of the Senate I will then have opportunity to advise myself of all the testimony that has been given, so that I can more freely express an exhaustive opinion. But that is all I desire to offer at this time. I just wished to state my position.

Mr. NEELY rose.

Mr. KING. Mr. President, I should like to hasten along and continue, if I may.

Mr. NEELY. Mr. President, the Senator referred to the fact that he had no complaint from parents, I believe.

Mr. KING. No; doubtless the Senator has in mind the testimony of the Senator from California [Mr. DOWNEY] before the committee of the Senator from West Virginia. I have been reading it, and he mentioned the fact that he had received no complaints from parents.

Mr. NEELY. I beg the Senator's pardon. But in reply to the statement, regardless of its author, will the Senator not permit me, with his habitual courtesy, to read a paragraph from another Member of the Senate?

Mr. KING. Very well.

Mr. NEELY. While the Senate was considering a bill similar to the one now before us a year ago, the Senator from New Jersey [Mr. SMATHERS] participated in the debate, and said:

> I should like to say to the Senator from West Virginia that I heartily agree with what he says. Before I came to the Senate I was common-pleas judge in Atlantic City for 11 years. I presided over the juvenile court, and I found week after week that children on their way home from a movie, where they had seen a gangster picture, broke into some fruit store or committed some act which was a violation of the criminal law, which brought them into the juvenile court.

Mr. KING. Mr. President, I have discussed this matter, and can only repeat by saying that undoubtedly, particularly in the early stages of the motion-picture development, pictures were exhibited which were objectionable, and some of them obnoxious. It should be said, however, that if there are pictures exhibited which are obscene and violative of statutes, the criminal laws may be invoked to protect society against their exhibition.

As I have indicated, criminal statutes are violated, but it is manifestly unfair to attribute to the motion-picture industry the cause of the violation of our penal statutes.

Mr. NEELY. Mr. President, I hope the Senator will not emphasize the number of crime or gangster pictures which are made by the independents. The number of pictures of any kind made by the independents is negligible compared with the number made or marketed by the Big Eight, which control the distribution of at least 85 percent of the entire American production.

Mr. KING. Mr. President, I do not quite agree with my friend. As has been indicated, there is substantial agreement that American motion pictures have had steady and continuing improvement in their quality—morally, artistically, and educationally. When a measure similar to Senate bill 280 was reported by the Senate Committee on Interstate Commerce in 1936 (Senate bill 3012, reported in June 1936), in the report of the committee there was reference to the improvement in the quality of motion pictures in the 2 years prior to the report. The report was dubious whether such improvement could be expected to be continued or maintained. Three additional years have elapsed, and in all fairness it must be stated that improvement has been maintained and has progressively continued. It is true that the American public is entitled to choose even as between good pictures; but it cannot be said, upon the record made at the hearings, that a legislative finding would be warranted to the effect that the American people are anywhere prevented from choosing from among good pictures, or from making their choice effective by pressure upon the exhibitors of motion pictures.

WHAT ARE BLOCK BOOKING AND BLIND SELLING

It would be well at this point to look into the facts in order to determine just what block booking and blind selling are, and their effect upon those engaged in the motion-picture industry.

Block booking is defined in the report submitted by the majority as a practice—

> Whereby each of the eight major producer-distributors leases to the exhibitors during each recurrent selling season its production of pictures for the ensuing year in large blocks—often the entire output—thus affording the exhibitors no choice but to take all of the pictures so offered, or none.

This definition makes it plain that the bill is aimed against the so-called Big Eight in the distribution of motion pictures. In order to keep the record straight, however, it should be stated again that the more than 100 independent producers of films lease their product through block-booking agreements.

The bill proceeds upon the theory that an exhibitor must show all the pictures produced by a certain company if he wants to show any. Assuming that each of the Big Eight produces 50 feature pictures, more or less, each year, an exhibitor needing 200 pictures for 1 year would be limited to the output of 4 companies. If he is required to take all their output, he does not have enough playing time to play the good pictures produced by the other 4 leading companies. Thus, the charge is made that the exhibitor is deprived of the good pictures produced by several of the companies, and is required to show pictures that he does not want to show and that his patrons do not want to see.

Even if block booking were forced upon the exhibitors to such an extent, I am of the opinion that the pending measure will not bring about the results intended, for reasons that I shall discuss in a moment.

However, the evidence as presented at the hearings seems clear that there is no such thing as "compulsory" block booking, as it is termed in the bill. The facts clearly indicate that exhibitors are not required to take "all or none."

Mr. NEELY. Mr. President, does the Senator yield?

Mr. KING. I yield.

Mr. NEELY. If there is no such thing as compulsory block booking, will the Senator inform us how it could injure anyone in the motion-picture industry to outlaw this practice?

Mr. KING. I will leave that to the Senator to determine. However, the Circuit Court of Appeals, as I have shown, has held in effect that if there is block booking, it is not a violation of any antitrust laws. If there is no block booking, then of course the bill before us is absurd. The purpose of the bill before us, however, is to bring within the letter of criminal statutes acts which are not criminal. In other words, to make acts crimes which are not crimes, to subject an important industry to governmental control, directly or indirectly.

I return to the point I was discussing when the Senator interrupted me. If exhibitors were required to take all pictures or none, it is logical that each picture would be shown exactly the same number of times in as many theaters as had contracted to take the entire output of a certain producer. Thus, if Paramount should produce 50 pictures in a given year, and enter into 10,000 contracts with theaters to take their entire output, it is inescapable that each of those 50 pictures would be exhibited in each of those 10,000 theaters, if block booking were what the proponents of this measure contend it is. Each picture would have 10,000 bookings.

The facts, however, indicate that this is not the situation; and that fact was clearly illustrated by my friend the Senator from Maine (Mr. WHITE) in his admirable address the other day. For the variations in the number of bookings which each picture has, one need only look at the tables presented at pages 268–271 of the hearings. The figures are for the playing season 1937–38. They indicate that certain pictures—pictures that are box-office attractions—have a very high number of bookings, whereas the poor pictures have very low numbers of bookings; and the pictures range systematically between the two extremes. The figures for six of the eight leading distributors were:

Twentieth Century-Fox: One picture had 12,214 bookings (that is, played in 12,214 different theaters), while the picture with the smallest circulation had only 3,581 bookings. The rest of the output of this company ranged between these two limits.

R. K. O. Radio Pictures: One had 9,567 contracts, while the lowest had only 845 bookings. The 46 pictures produced by this company during that year had bookings ranging between one thousand and nine thousand.

Universal Pictures: Between 10,567 and 2,315 bookings.

Metro-Goldwyn-Mayer: From 10,298 bookings to 5,455.

Columbia Pictures: From 10,298 to 2,006 bookings.

Paramount: From 13,200 to 3,947 bookings.

These figures—and they were not denied by the proponents of the pending bill—seem to show conclusively that the theaters actually have a wide selection of the pictures released and sold by the eight leading distributing companies.

The variations may be explained upon several bases. For instance, the exhibitor enjoys the 10- and 20-percent cancelation privilege, to which reference has already been made. Also, many exhibitors receive films under what are termed "selective" contracts in the industry. Under such a lease,

the exhibitor has the right to select a certain number out of the total that he will take. Thus, he may contract to accept 20 or 25 out of the total output of a certain company. This type of selective contract exists in the industry, although it is not clear just what percentage of the contracts are of this type. Then, there is the fact that approximately 70 percent of the theaters in this county are today showing pictures under censorship. Mr. C. C. Pettijohn, general counsel of the Motion Picture Producers and Distributors, stated on March 26, 1936, during the hearings upon a bill similar to Senate bill 280, before a subcommittee of the House Interstate and Foreign Commerce Committee:

I now submit for the record specific proof that 70.62 percent of the territory in the United States is under censorship. There are 31 recognized distributing centers in the United States. In 17 of these centers they cut their pictures to conform with the action taken by local, State, or city censorship boards. This 70.62 percent of the territory of the United States from a revenue standpoint would, in my opinion, cover and serve about 80 percent to 85 percent of our population.

Following is a list of the distribution centers where all positive prints of pictures are cut to conform with regulations of either State, city, or local censorship groups. It also notes the percent of each territory and the total percent of the territory in the United States under censorship:

	Percent
Albany	2.00
Atlanta	2.60
Boston	6.25
Buffalo	3.00
Chicago	6.85
Cincinnati	3.50
Cleveland	4.35
Detroit	4.00
Kansas City	2.50
Los Angeles	3.35
Milwaukee	2.15
New Orleans	1.45
New York	13.50
Philadelphia	6.00
Pittsburgh	4.50
Portland	1.21
Washington	3.41
Total	70.62

Public opinion in the United States will not support obscene and vicious pictures. Indeed, existing law prevents such pictures being made public. Section 396 of Title 18 of the United States Code provides:

Whoever shall * * * deposit or cause to be deposited with any express company or other common carrier, for carriage from one State * * * to any other State * * * any obscene, lewd, or lascivious, or any filthy book, pamphlet, picture, motion-picture film, * * * designed for any indecent or immoral use * * * shall be fined not more than $5,000 or imprisoned not more than five years, or both.

Further, the Federal Trade Commission has been established to prevent unfair trade practices, and the practices condemned in this bill have been found not to be violative of the law. The Sherman Antitrust Act outlaws contracts in restraint of trade. In addition, 70 percent of the country exercises the right of censorship, which destroys the argument that the present practices destroy freedom of selection among the communities of our country.

INJURY TO SMALL EXHIBITORS IF BILL IS PASSED

In my opinion the passage of Senate bill 280 would adversely affect the small independent exhibitors to the point of eliminating many of them from their chosen business.

The present system of distribution of motion pictures has resulted in a fine achievement in that a person can go to his neighborhood theater and see the finest motion picture that can be produced. For a very nominal sum—as low as 25 cents—almost anyone can view a picture that cost 2 million dollars and took 2 years to produce. It is a real accomplishment that the more than 17,000 theaters throughout the country receive films enough to keep their doors open day after day, and that the small theaters in small towns play the very best pictures shortly after they have been exhibited in the biggest theaters. A system of distribution is to be commended whereby large theaters pay thousands of dollars for the same film that small theaters will pay only a few dollars for a few weeks later. I feel that a system of distribution whereby little theaters get the best pictures along with the big theaters should not be destroyed.

It seems that the individual who would be most injured by block booking is the exhibitor. As an abstract proposition, a theater owner in a small town would be well off if he could show only the best pictures that were produced by each of the eight leading companies. His revenue is undoubtedly cut down when he is required to take the entire output of four companies. The result is that he does not have enough playing time to buy the good pictures produced by the other four companies, even if they would sell him only the good ones.

Looking at it from this point of view, block booking would appear to be an oppressive practice; and it would seem to be better to allow him to select his pictures singly, the natural assumption being that he would choose the good pictures of all producing companies. This appears to be the philosophy of the bill under consideration, together with the assumption that the exhibitor's patrons will dictate to him what they consider to be the "good" pictures.

The bill, if enacted, however, will injure these very exhibitors. There are thousands of exhibitors who oppose the present bill; and I am unable to understand how any exhibitor could oppose the measure if the benefits to them which the proponents contend would follow its enactment will materialize.

There has been testimony during the hearings that it is difficult to secure enough first-run good pictures. The enactment of this measure will not make all pictures box-office hits. Where will the small-town exhibitors be in attempting to compete with the Music Hall of Radio City, for instance, which can pay $10,000 for the right to show a single picture? It must not be forgotten that the smallest theater, under block booking, has the same right as the biggest to obtain the good pictures and at a reasonable time after their release.

This bill will bring about destructive competition for the right to exhibit the good films—destructive from the viewpoint of the small exhibitor with limited capital. Under the present method of distribution they are able to receive the good pictures together with the mediocre. If this measure is enacted, the smallest theaters will be left with the poorest pictures, and will be able to secure the box-office hits only after they have lost a good deal of their value through lapse of time.

With a shortage of really good pictures, it is logical to assume that the largest theater could and would buy the best pictures. The next largest theaters would buy the next best films, and so forth, until the smallest theaters would be left with pictures of least worth. I cannot help but believe that the small independent theater owners, for whose benefit it is alleged the bill is primarily designed, will be legislated out of business if the bill becomes law.

As has been stated, the enactment of this bill will, it is believed, result in the absorption by the producing-distributing companies of many of the small theaters; this, for the reason that, rather than incur the risk that will attend the leasing of pictures singly at higher prices than they would bring in groups, the distributors will buy the theaters and thus be spared the necessity of leasing their films under the penalties provided in the bill. This view is strengthened by the fact that the small town theaters will be willing to sell to the producers, simply because they will be unable to compete with large theaters throughout the country for the good films.

I have referred to the fact that many exhibitors oppose the bill; this indicates that they would not oppose it if the benefits would result that are promised by the sponsors of this legislation. The Motion Picture Theater Owners of America, representing an active membership of over 5,000 of the leading theaters of this country, are opposed to the enactment of this bill. This organization, through its representative, Mr. Kuykendall, their president, stated (pp. 350–352, hearings):

Strangely enough, the exhibitors whom I represent, who oppose the Neely bill, are utterly opposed to compulsory block booking and blind selling. We are not at all unsympathetic with the

ostensible purpose of this legislation; but we are convinced that the provisions of the Neely bill applied to our business—under criminal penalties—will do nothing but damage. Frankly, I don't believe it is possible to draft a statute that would be practical and effective. * * *

We are opposed to compulsory block booking, if it means that we have to take and pay for unwanted pictures in order to get the ones we want. We want a reasonable selection of the pictures we book; but we must have an assurance of an uninterrupted flow of pictures delivered to our theaters as we need them, and we must buy them at wholesale prices if we are successfully to continue in operation. We are convinced that the way to get the desired selection without wrecking the business is by an option to cancel in every contract, which the exhibitors can exercise at the time the picture is ready for actual booking, not at the time it is licensed.

The small-town exhibitors enjoy a great deal of security under the present system of distribution. They possess the assurance that they will receive all the pictures they need; and this, with a minimum of expense and trouble on their part. In my opinion, the evidence of an alleged need for reform in the industry is not sufficient to warrant the destruction of this exhibitor security. It seems inevitable that the exhibitor, whose freedom of selection is sought to be secured by the enactment of this bill, will be adversely affected by its enactment to the point of being legislated out of business.

Another practical objection to the bill is the great increase in the cost of distribution of films under the requirements of the bill, which must of necessity be passed on to the public. Mr. Pettijohn, before the House committee in 1936, stated:

Distribution cost in the motion picture industry is about 26 percent, and it is estimated by the best brains in the business that it will rise to 40 percent to 45 percent if this bill is passed, thus increasing the cost of the public, of course (p. 433, hearings).

It is only natural that the cost will increase if each film must be handled individually, individual contracts drawn up, synopsis given on each picture, and salesmen by the thousands going around contacting individual theater owners in regard to each individual picture. Added to this will be the tremendous cost of defending litigation that will be imposed upon the distributors of films by the terms of this bill. Under the present system, all this unnecessary waste is avoided.

UNCONSTITUTIONALITY

Mr. President, I desire to submit some observations for the purpose of showing the unconstitutionality of the measure under consideration.

We have before us a criminal statute that is lacking in the definiteness that is required by the due process of law clause of the fifth amendment to the Constitution.

It is fundamental in our law that a statute prescribing criminal penalties for its violation must inform the public as to what conduct is made unlawful, and must establish a standard by which a person, exercising due diligence, may determine whether his actions will subject him to the penalties. The measure under consideration, failing in this respect, is unconstitutional.

Section 3 of the bill provides that it shall be unlawful to lease or offer to lease motion-picture films in a group of two or more and to require the exhibitor to take the entire group or permit him to take none. There is nothing indefinite in that provision, and a distributor would clearly know whether his offer or lease would come within its proscriptions.

However, the section proceeds to make other actions illegal, and subsections (a) and (b) of section 3 are the ones lacking in due process. It is made unlawful to lease or offer to lease films in a group of two or more at a lump-sum price and individual pictures at individual prices, when the relationship between the lump-sum price and the individual prices will:

(a) operate as an unreasonable restraint upon the freedom of an exhibitor to select only such pictures as he may desire; or

(b) tend to require him to lease the entire group or forego the leasing of any number or numbers thereof.

Surely there is no test of criminality here. Mr. Justice Holmes, in the case of *United States* v. *Alford*, 274 U. S. 264, laid down what seems to be the test in determining whether criminal statutes are sufficiently definite. The question is, Does the act lay down a plain enough rule of conduct for anyone who seeks to obey the law?

Applied to the language of the bill before us, a person seeking to obey the law could not know whether his price quotations will be such as to unreasonably restrict a particular exhibitor in his freedom of selecting motion pictures; and this, for the simple reason that a man cannot project himself into another's mental operations.

The United States Supreme Court, in the well-known case of *Connally* v. *General Construction Company*, 269 U. S. 385, stated at page 391:

That the terms of a penal statute creating a new offense must be sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties, is a well-recognized requirement, consonant alike with ordinary notions of fair play and the settled rules of law. And a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application, violates the first essential of due process of law.

The Court proceeds to say that the question of legislative certainty had been the subject of a great deal of litigation. The precise point of differentiating between statutes lacking in certainty and those held to possess sufficient certainty is not easy of statement. Then the Court stated:

But it will be sufficient for present purposes to say generally that the decisions of the court upholding statutes as sufficiently certain, rested upon the conclusion that they employed words or phrases having a technical or other special meaning, well enough known to enable those within their reach to correctly apply them; or a well-settled common law meaning, notwithstanding an element of degree in the definition as to which estimates might differ, or that, for reasons found to result either from the text of the statutes involved or the subjects with which they dealt, a standard of some sort was afforded.

Let us apply these rules in an effort to ascertain whether subsections (a) and (b) of section 3 of the pending bill satisfy the requirement of certainty. In the first place, statutes have been upheld if they employed words or phrases with a technical meaning, enabling correct application of the words by those who will come within their provisions.

The words used here have no technical or special meaning. The language is plain; but whether a distributor's conduct is such as to bring him within the penalties prescribed is a question that could be answered only by a jury in each instance. It is made illegal to quote prices, as between pictures singly and in a group, that will unreasonably restrict the exhibitors' freedom to select pictures individually, or require him to take a group or forego taking any. This language has no technical meaning which would permit those engaged in the motion picture industry to apply the law correctly. Surely, "unreasonable restriction upon the freedom of selection" has no peculiar significance to distributors from which they can determine whether they are violating the law.

The second type of case upholding language as being definite enough is where there has been a well-settled common law meaning. Thus, the Sherman Act, declaring every contract in restraint of trade to be illegal, was upheld because the phrase "restraint of trade" had a very definite meaning at common law prior to 1890. The question of definiteness was squarely presented to the Supreme Court in the case of *Nash* v. *United States*, 229 U. S. 373, and the language was upheld in view of the long history of restraint of trade and attempts to monopolize at common law, it being regarded that the long line of decisions sufficiently defined the words used in the act so that persons could charter their courses intelligently with respect to them. The Supreme Court has subsequently declared of that case:

In the *Nash* case we held that the common law precedents as to what constituted an undue restraint of trade were quite specific enough to advise one engaged in interstate trade and commerce what he could and could not do under the statute. In commenting on and affirming the *Nash* case, this Court said in *International Harvester Company* v. *Kentucky*, 234 U. S. 216, 223:

"The conditions are as permanent as anything human, and a great body of precedents on the civil side coupled with familiar practice make it comparatively easy * * * to keep to what is safe" (*Cline* v. *Frink Dairy Company*, 274 U. S. 445, at 460).

As was said in the famous case of *United States* v. *Standard Oil Company of New Jersey*, 221 U. S. 1:

There can be no doubt that the sole subject with which the first section deals is restraint of trade as therein contemplated, and that

the attempt to monopolize and monopolization is the subject with which the second section is concerned. It is certain that those terms, at least in their rudimentary meaning, took their origin in the common law, and were also familiar in the law of this country prior to and at the time of the adoption of the act in question.

Similarly, the phrase "reasonable rates" in the field of public utility regulation has been held sufficiently certain in view of its use for many years at common law, prior to its usage in regulatory statutes. The same may be said of such a well-known standard as "due care."

But there is no common-law meaning of the words "unreasonable restraint of the freedom of selection." There are no cases to which a distributor may turn to ascertain what is regarded as "freedom of selection," or what has been held to be a restraint of such freedom. The indefinite language of this bill cannot be upheld upon the ground that the words used have a common law meaning.

Nor is there "a standard of some sort" afforded. The standard is simply what goes on in the mind of any exhibitor. It is a standard of whether the relationship between two prices restricts his freedom of selection and requires him to take a group of films or to forego buying any. It is a standard that will vary with every exhibitor, and with the same exhibitor in connection with each picture.

Criminal penalties, it is submitted, cannot be predicated upon a test so dubious and uncertain.

The United States Supreme Court quoted with approval the following words from the decision of the Court of Appeals for the District of Columbia, in the case of *United States* v. *Capital Traction Company*, 34 App. D. C. 592:

> The dividing line between what is lawful and unlawful cannot be left to conjecture. The citizen cannot be held to answer charges based upon penal statutes whose mandates are so uncertain that they will reasonably admit of different constructions. A criminal statute cannot rest upon an uncertain foundation. The crime, and the elements constituting it, must be so clearly expressed that the ordinary person can intelligently choose, in advance, what course it is lawful for him to pursue. Penal statutes prohibiting the doing of certain things, and providing a punishment for their violation, should not admit of such a double meaning that the citizen may act upon the one conception of its requirements and the courts upon another.

(Quoted by the Supreme Court in the case of *Connally* v. *General Construction Company*, 269 U. S. 385, at 393.)

In that case, a statute making it illegal for a street railway company to run an insufficient number of cars to accommodate passengers "without crowding" was held void for uncertainty. The Court said:

> What shall be the guide to the court or jury in ascertaining what constitutes a crowded car? What may be regarded as a crowded car by one jury may not be so considered by another. What shall constitute a sufficient number of cars in the opinion of one judge may be regarded as insufficient by another * * *. There is a total absence of any definition of what shall constitute a crowded car. This important element cannot be left to conjecture, or be supplied by either the court or the jury. It is of the very essence of the law itself, and without it the statute is too indefinite and uncertain to support an information or indictment.

The case of *Connally* v. *General Construction Co.* (269 U. S. 385), above cited, held that an Oklahoma statute was void under the fourteenth amendment as being too indefinite to constitute due process of law. The statute required those who contracted with the State to pay their employees "the current rate of wages in the locality." Both the phrases "current rate of wages" and "locality" were deemed to be lacking in certainty, the Court concluding:

> The result is that the application of the law depends not upon a word of fixed meaning in itself, or one made definite by statutory or judicial definition, or by the context or other legitimate aid to its construction, but upon the probably varying impressions of juries as to whether given areas are or are not to be included within particular localities. The constitutional guaranty of due process cannot be allowed to rest upon a support so equivocal.

Another case in point, decided by the Supreme Court, is that of *Champlin Refining Co.* v. *Commission* (286 U. S. 210), involving a statute which made it unlawful to produce crude oil in such manner as to constitute waste, which shall include "economic waste, underground waste, surface waste, and waste incident to the production of crude oil in excess of transportation or marketing facilities or reasonable market demands."

In invalidating this statute, as repugnant to the fourteenth amendment, the Court said, at pages 242–243:

> The general expressions employed here are not known to the common law or shown to have any meaning in the oil industry sufficiently definite to enable those familiar with the operation of oil wells to apply them with any reasonable degree of certainty. The meaning of the word "waste" necessarily depends upon many factors subject to frequent changes. No act or definite course of conduct is specified as controlling and, upon the trial of one charged with committing waste in violation of the act, the court could not foresee or prescribe the scope of the inquiry that reasonably might have a bearing or be necessary in determining whether in fact there had been waste * * * In the light of our decisions, it appears upon a mere inspection that these general words and phrases are so vague and indefinite that any penalty prescribed for their violation constitutes a denial of due process of law. It is not the penalty itself that is invalid but the exaction of obedience to a rule or standard that is so vague and indefinite as to be really no rule or standard at all.

An act of Congress made it a crime to build a fire "in or near any forest, timber, or other inflammable material upon the public domain," and to leave it burning. Against the charge that the language was too indefinite, the Supreme Court said:

> The word "near" is not too indefinite. Taken in connection with the danger to be prevented it lays down a plain enough rule of conduct for anyone who seeks to obey the law (*United States* v. *Alford*, 274 U. S. 264).

As has been stated, however, the language of the pending measure lays down no rule of conduct by which a person seeking to obey it could conduct himself. Whether the difference between wholesale and retail prices will tend to require a prospective customer to take the wholesale lot or forego buying at all is a matter of individual concern. It is no rule of conduct, no standard.

The claim may be made that since the words "unreasonable restraint" are employed in the bill, the statute is enough like the Sherman Act as to be sufficiently definite. Such a claim, however, is untenable. The Colorado Anti-Trust Act, declaring unlawful contracts and combinations in restraint of trade, was held to be void as too uncertain, because it contained a proviso that such contracts were not unlawful when necessary to enable the participants to obtain a reasonable profit. The United States Supreme Court, in the course of its decision nullifying that statute, stated at page 457 (*Cline* v. *Frink Dairy Company*, 274 U. S. 445):

> Such an exception in the statute leaves the whole statute without a fixed standard of guilt in an adjudication affecting the liberty of the one accused. An attempt to enforce the section will be to penalize and punish all combinations in restraint of trade in a commodity when in the judgment of the court and jury they are not necessary to enable those engaged in it to make it reasonably profitable, but not otherwise. Such a basis for judgment of a crime would be more impracticable and complicated than the much simpler question in the Cohen Grocery case, whether a price charged was unreasonable or excessive. The real issue which the proviso would submit to the jury would be legislative, not judicial. To compel defendants to guess on the peril of an indictment whether one or more of the restrictions of the statute will destroy all profit or reduce it below what would be reasonable, would tax the human ingenuity in much the same way as that which this court refused to allow as a proper standard of criminality in *International Harvester Company* v. *Kentucky* (234 U. S. 216, 232, 233).

The Court concluded (p. 465):

> But it will not do to hold an average man to the peril of an indictment for the unwise exercise of his economic or business knowledge involving so many factors of varying effect that neither the person to decide in advance nor the jury to try him after the fact can safely and certainly judge the result. When to a decision whether a certain amount of profit in a complicated business is reasonable is added that of determining whether detailed restriction of particular antitrust legislation will prevent a reasonable profit in the case of a given commodity, we have an utterly impracticable standard for a jury's decision. A legislature must fix the standard more simply and more definitely before a person must conform or a jury can act.

In the course of that opinion, the Court refers to and quotes from its opinion in the well-known case of *United States* v. *Cohen Grocery Company* (255 U. S. 81), which held

unconstitutional the so-called Lever Act. The Court said in that case:

The sole remaining inquiry, therefore, is the certainty or uncertainty of the text in question, that is, whether the words "That it is hereby made unlawful for any person willfully * * * to make any unjust or unreasonable rate or charge in handling or dealing in or with any necessaries" constituted a fixing by Congress of an ascertainable standard of guilt and are adequate to inform persons accused of violation thereof of the nature and cause of the accusation against them. That they are not, we are of opinion, so clearly results from their mere statement as to render elaboration on the subject wholly unnecessary. Observe that the section forbids no specific or definite act. It confines the subject matter of the investigation which it authorizes to no element essentially inhering in the transaction as to which it provides. It leaves open, therefore, the widest conceivable inquiry, the scope of which no one can foresee and the result of which no one can foreshadow or adequately guard against. In fact, we see no reason to doubt the soundness of the observation of the court below, in its opinion, to the effect that, to attempt to enforce the section would be the exact equivalent of an effort to carry out a statute which in terms merely penalized and punished all acts detrimental to the public interest when unjust and unreasonable in the estimation of the court and jury.

Cases on this point might be multiplied indefinitely, but perhaps the most famous is that of *International Harvester Company* v. *Kentucky*, decided in 1913 and reported in 234 U. S. 216, Mr. Justice Holmes rendering the opinion of the Court. That case dealt with the Kentucky antitrust law, which was to the effect that "any combination for the purpose of controlling prices was lawful unless for the purpose or with the effect of fixing a price that was greater or less than the real value of the article." The Court very clearly indicated the distinction between what is permissible and what is unconstitutional along the line of uncertainty. It stated:

In our opinion it (the law) cannot stand. We regard this decision as consistent with *Nash* v. *United States* (229 U. S. 373, 377), in which it was held that a criminal law is not unconstitutional merely because it throws upon men the risk of rightly estimating a matter of degree—what is an undue restraint of trade. That deals with the actual, not with an imaginary condition other than the facts. It goes no further than to recognize that, as with negligence, between the two extremes of the obviously illegal and the plainly lawful there is a gradual approach and that the complexity of life makes it impossible to draw a line in advance without an artificial simplification that would be unjust. The conditions are as permanent as anything human, and a great body of precedents on the civil side coupled with familiar practice makes it comparatively easy for common sense to keep to what is safe. But if business is to go on, men must unite to do it and must sell their wares. To compel them to guess on peril of indictment what the community would have given for them if the continually changing conditions were other than they are, to an uncertain extent; to divine prophetically what the reaction of only partially determinate facts would be upon the imaginations and desires of purchasers, is to exact gifts that mankind does not possess.

This language, it would seem, is strikingly applicable to the situation presented by the pending measure. Producers and distributors of motion pictures must continue to lease their wares, and to compel them to guess, on peril of indictment, whether a price that they are about to quote will unreasonably restrict the offeree's freedom of choice or will tend to require him to lease all or none, is to "exact gifts that mankind does not possess." Dealing with a man's state of mind—with the manner in which a man will receive a price quotation—is not dealing with ascertainable fact. It delves into the metaphysical.

The views of the Court in the above-cited case were further amplified in that of *Collins* v. *Kentucky* (234 U. S. 634), which involved the same Kentucky statute. The Court further clarified its position:

The Harvester Co. was prosecuted for being a party to a price-raising combination; Collins, for breaking a combination agreement and selling outside the pool which he had joined. With respect to each, the test of the legality of the combination was said to be whether it raised prices above the "real value." If it did—in Collins' case—he would be subject to penalties for remaining in the combination; if it did not, he would be punishable for not keeping his tobacco in the pool. He was thus bound to ascertain the "real value," to determine his conduct not according to the actualities of life, or by reference to knowable criteria, but by speculating upon imaginary conditions and endeavoring to conjecture what would be the value under other and so-called normal circumstances with fair competition, eliminating the abnormal influence of the combination itself, and of all other like combinations, and of still other combinations which these were organized to oppose. The objection that the statute, by reason of its uncertainty, was fundamentally defective was as available to Collins as it was to the Harvester Co.

There can be no doubt that the question of whether or not an exhibitor will feel that his freedom of selection has been restrained by price relationships is not a "knowable criterion."

It is important to remember in considering this measure that the bill proposes a criminal statute providing a fine of $5,000 or 1 year's imprisonment, or both, for its violation. The United States Supreme Court holds that the requirement of definiteness in statutory language is stronger in criminal statutes than in civil. This point was clearly presented in the case of *Levy Leasing Co.* v. *Siegel* (258 U. S. 242), in which case the Court upheld language in the New York housing laws as sufficiently definite. The statute was of a civil nature, and provided that a tenant should have a defense in a suit for his rent if the rent were unjust or unreasonable. The Court said:

While the act is in force there is little to decide except whether the rent allowed is reasonable, and upon that question the courts are given the last word. The standard of the statute is as definite as the "just compensation" standard adopted in the fifth amendment to the Constitution and therefore ought to be sufficiently definite to satisfy the Constitution. *United States* v. *Cohen Grocery Company* (258 U. S. 81), dealing with definitions of crime, is not applicable.

The Lever Act, to which reference has been made, provided that it shall be unlawful for a seller to exact excessive prices for necessaries. In the case of *Weeds, Inc.*, v. *United States* (255 U. S. 109), the defendant was charged with an indictment alleging that it had exacted excessive prices. The Supreme Court, in affirming the judgment quashing the indictment, stated:

The ruling in the Cohen case is decisive here unless the provision as to conspiracy to exact excessive prices is sufficiently specific to create a standard and to inform the accused of the accusation against him, and thus make it not amenable to the ruling in the Cohen case. But, as we are of the opinion that there is no ground for such distinction, but, on the contrary, that the charge as to conspiracy to exact excessive prices is equally as wanting in standard and equally as vague as the provision as to unjust and unreasonable rates and charges dealt with in the Cohen case, it follows, for reasons stated in that case, that the judgment in this must be reversed and the case remanded with directions to set aside the sentence and quash the indictment.

If it is too vague to enact penalties for charging excessive prices, the language of the bill under consideration would seem to be a greater offense against the "due process of law" clause. The bill adds to the vagueness of the phrase "excessive prices" the equally uncertain standard of whether or not individual prices for pictures will operate upon each exhibitor as "excessive" so as to tend to require him to take a group rather than single pictures. To an indefinite relationship between wholesale and retail prices is added the subjective problem of its effect upon another's mental operations.

Laws which create crime ought to be so explicit that all men subject to their penalties may know what acts it is their duty to avoid. Before a man can be punished, his case must be plainly and unmistakably within the statute.

So said the Supreme Court of the United States in the case of *United States* v. *Brewer* (139 U. S. 278), at page 288.

As has been stated, the Federal cases setting up a standard of definiteness in the field of criminal statutes might be listed indefinitely. It would be impossible to go into the host of State cases to the same effect. However, the preceding review of the leading cases in this field suffices to indicate the limits of the rule. It is enough to say, from a reading of the cases, that a criminal statute must define with certainty the crime and must furnish an ascertainable standard of guilt to guide and inform the public what it is their duty to avoid; and if a statute fails to do this, and delegates to a jury the fixing of the test or standard, it is lacking in due process of law, is unconstitutional, and void.

With these principles in mind, the practical effect of the language in the present bill may be examined, with a view to determining whether or not the language itself furnishes a guide to the conduct of those who would obey the law.

Subsections (a) and (b) of section 3 require a distributor, in marketing his product, to project himself into the mental operations of the exhibitor in an endeavor to ascertain whether or not a certain price quotation will operate upon such a mind as to restrict its freedom of selection.

It is a recognized fact in all lines of business that there is economy in mass distribution. The language of the bill indicates that some price differential between group and single leasing is justifiable. When does this price difference become such as to restrain the exhibitor in his freedom of selection? What test is to be used? Is it a question of whether or not a reasonable, ordinary exhibitor would be restricted by certain prices; or is it a question of whether or not this particular exhibitor was in fact restricted? The bill gives no answer.

A distributor who is found to have unreasonably restrained the exhibitor's freedom in this respect is a criminal. How can one conscientiously seeking to obey the law market his product under a threat for violating such an indefinite standard? Every wholesale price, and block booking is a form of wholesaling, is offered as an inducement to buy more and avoid the higher retail price. Under the provisions of the bill when does this inducement become criminal?

Let it be assumed that a higher price for a picture individually leased may be justified upon the ground of cost. Suppose a distributor were willing to lease an outstanding picture at a very nominal sum when it is included in a group of other pictures, but that there were a great demand for the picture individually—a demand by big theaters which are willing to pay a very high price for that one picture alone. Because of this demand, the distributor feels that he must quote a high price to a small exhibitor who desires that picture alone; if he should quote a lower price, he would be losing money, because large theaters are willing to pay more. The price he quotes to the small exhibitor is so high in comparison with the patronage of the small exhibitor that the exhibitor feels that he cannot afford to pay the price; and yet he could have afforded to buy that picture in connection with a group, because the price for the entire group reduces the average cost for the outstanding pictures.

Under such circumstances, is the distributor liable to the penalties provided in the bill? Under the wording of the bill he is a criminal. He has quoted a price for a group which the exhibitor felt he could afford; but he quoted a price for an individual picture which seemed so high to that particular exhibitor that it tended "to require him to forego the leasing of any number of the group."

The bill does not make differences in cost a defense to an indictment under its provisions. The sole test is whether or not the difference in prices quoted, as between group and single pictures, operates unreasonably to restrict the exhibitor's freedom of selection or tends to require him to lease an entire group or none.

If inducing a prospective purchaser to buy more at a lower price than he otherwise would buy is to be regarded as restricting the purchaser's freedom of selection and is to be made criminal, then, indeed, every vendor of merchandise restricts the buyers' freedom of choice, and would be liable to criminal penalties if the policy embodied in the bill should be extended to trade in general.

As was asked in the minority report on this measure:

> Can any salesman ever be sure that the prices he quoted were such that the exhibitor felt himself free from restraint to select only such films as he may desire and prefer? Does the exhibitor himself know definitely and surely that fact? Can the salesman get into the exhibitor's mental operations to know which he desires and prefers?

The mere posing of such questions indicates the lack of certainty in the standard of criminality proposed by the bill. The bill proposes to create new penal offenses; and in so doing a standard so vague is established that "men of common intelligence must necessarily guess at its application." The indefiniteness of the language used cannot be supported on the analogy of the Sherman Act; the courts have been too persistent in explaining the reason for upholding the uncertain term, "restraint of trade." There is no such ascertained common-law meaning of the phrases employed in the bill as was found with respect to the Sherman Act.

The standard, if there be one, is such as to leave the question of guilty conduct purely conjectural. The words of the Supreme Court must be remembered: "The dividing line between what is lawful and unlawful cannot be left to conjecture."

It might well be added that the guilt of a man may not depend upon the effect of certain outside phenomena upon another's mind. Subsections (a) and (b) of section 3 of the bill clearly do not lay down a rule of conduct by which a person seeking to obey the law may guide his actions. The bill, failing to supply an adequate standard of guilt, lacks that quality of due process of law which is guaranteed in the fifth amendment of the Federal Constitution.

I therefore unhesitatingly say that the bill, if enacted, would be unconstitutional.

Mr. President, I shall not detain the Senate longer, but, before concluding, I ask unanimous consent to have inserted in the RECORD, as a part of my remarks, excerpts from the testimony given before the committee by several of the witnesses who testified before the subcommittee reporting the bill. Their names are:

Sidney R. Kent, president, Twentieth Century-Fox Corporation; Charles C. Pettijohn, general counsel for Motion Picture Producers & Distributors Association; Dr. Russell Potter, Columbia University, representing the National Board of Review of Motion Pictures; George J. Schaefer, president, RKO Radio Pictures Corporation; William F. Rogers, general sales manager, Metro-Goldwyn-Mayer; Robert Montgomery, representing Screen Actors' Guild; Kenneth Thomson, executive secretary of the Screen Actors' Guild; Mrs. Florence Fisher Parry, of Pittsburgh, Pa., writer and businesswoman; and Mrs. Piercy Chestney, president of the Macon Little Theater, Macon, Ga.

There being no objection, the statements were ordered to be printed in the RECORD.

Mr. NEELY. Mr. President, will the Senator yield before concluding his remarks?

The PRESIDING OFFICER (Mr. MINTON in the chair). Does the Senator from Utah yield to the Senator from West Virginia?

Mr. KING. I yield.

Mr. NEELY. Mr. President, by virtue of an existing order, the Senate must, at the expiration of 3 minutes, vote on the bill. In the meantime I ask unanimous consent to have printed in the RECORD a memorandum by Abram F. Myers, chairman of the Board of the Allied States Association of Motion Picture Exhibitors, in which he answers, and, in my opinion, conclusively refutes the arguments made against the bill in the Senate last Friday.

Mr. KING. I have no objection, providing the memorandum submitted by Mr. Myers may appear in the RECORD following the excerpts I am presenting.

There being no objection, the memorandum was ordered to be printed in the RECORD.

The excerpts from testimony given before the committee inserted by Mr. KING as a part of his remarks are as follows:

EXCERPTS FROM THE TESTIMONY OF SIDNEY R. KENT, PRESIDENT OF TWENTIETH CENTURY-FOX CORPORATION

I want to confine myself strictly to the merits of the bill. I agree with your remarks, Senator NEELY, in the record, that there are only two things that matter here, after all. One is whether block booking and blind selling are a bad practice. The other is—Is this the proper way to make them right? I am going to confine myself to that argument. I want to talk on the general aspects of the bill, of course, and its practical application to the sale and manufacture of motion pictures, based on by 23 years of experience.

I am speaking for the eight major producers and distributors, who make from 75 to 80 percent of the quality motion pictures that are made in America and who distribute them throughout the world. It is not my purpose to cover specifically all of the things that I will touch here in a general way. We will have here experts who will testify to whatever extent the committee desires in amplifying and proving any statements that I may make generally.

For example, when I state that the bill as drawn is entirely impractical from the standpoint of motion-picture making as the

people who have to make motion pictures know it, we will introduce evidence to prove that point, and that evidence, we think, will practically demonstrate our position, so that you will not have to rely on my statement.

I do not know whether this committee approves of the trade practice of block booking or blind buying. I cannot believe that they would wish to inflict a hardship on this industry for the sake alone of inflicting it, or even, if in the opinion of the committee legislation was necessary, that they would include or retain hardships now in this bill, that accomplish nothing and do not, we contend, even reach the end that the author has in mind.

* * * * * * *

First, I would like to analyze the two interests who are supporting the Neely bill, first from the angle of the trade itself, and second from the public angle, which I will come to later.

The Allied Exhibitors Association—there is no secret about this—has been very active in support of the Neely bill. I think it is pretty well known that they are the ones who have done the consulting in the drawing of this bill. There are in this country approximately 12,000 independent exhibitors, of which I think the Allied claim approximately 4,000 in their membership.

Senator WHITE. What do you mean by independent exhibitors?

Mr. KENT. I mean exhibitors who run their own business, Senator. I mean exhibitors who are not affiliated with any producer or distributor but who make their living out of their own operation.

There is another organization, known as the Motion Picture Theatre Owners of America, which, the Allied people will tell you, is not an independent organization. I will let Mr. Kikeyndall, the president, fight that out for himself, but I know that there are nine State organizations, with which I recently negotiated on our trade practices, who were just as independent as either Allied or anyone else who calls himself a true independent, and I know that none of them are here in favor of this bill.

So, I say, leaving out the producers and their interests, and leaving out the distributors and their interests, and saying that we are entitled to no consideration at all, and putting this bill on the basis of just the independent exhibitors of the country, the majority of the independent exhibitors of the country are against this bill. It seems to me that a bill as dangerous as this is in its consequences should be based on facts, if the facts are available. I say that if the majority of the independent exhibitors of this country were given a chance to vote on this bill, they would reject it, but that is just a statement. However, it is entitled to just as much weight by your committee as the statements of the gentlemen on the other side, who have said the opposite.

In my 23 years of work in this industry, I have been closely associated with exhibitors and exhibitor associations. I have been present and taken part in every one of the many sessions for trade reforms that have been held in the motion-picture industry. I know the problems and the complaints of the independent exhibitor equally as well as the author of this bill. I know as many of them by name as anyone else who has testified or will testify here, or as well as anyone else in the industry. I think that I can say, with as much right to say it as anyone else who testified on the other side, that the majority of the independents, as I know them, do not favor the Neely bill.

If this bill were the salvation of the independent exhibitor, not all of the independents in this industry are fools outside of the Allied organization. They know what they want; they will fight for it just the same. I will go back of this bill to the last three or four bills we have had on block booking down here, and there has been, at any time I know of, one organization that was trying to abolish block booking and blind selling.

* * * * * * *

As to the economic aspects of block booking and blind buying I make the statement that no industry could have expanded and grown as this one has if the method of sales and commercial intercourse between buyer and seller was oppressive or stifling. For 15 years I have waited in vain, in spite of general charges that have been made, to see someone submit a list of the constantly talked of independents who have been put out of business by block booking and blind buying. It seems to me unfair that year after year this claim is made that block booking and blind buying is putting not only themselves but others out of business, and yet they are here year after year not only with the same theaters but, in many instances, with more theaters.

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A lot has been said in this hearing about the right of a man to buy what he wants to buy at a time when he wants to buy it. I will admit that that is a very sacred right, but I do not believe that under the Constitution it is any more sacred than the right to choose your own customer and decide whether you will sell or will not sell, or that you will or will not allow a man to pick out three or four choice pictures that you have made out of a group and throw the rest away, as long as you are in open and free competition in doing it.

The company that I represent will spend this year approximately $30,000,000 in the building of a motion-picture program. It will spend that money based on its faith that it has showmanship enough and reputation enough and assets enough to make 52 motion pictures that will bring that money back with a profit. That program is built without one dollar of guaranty from any of these gentlemen that we will get a single dollar of it back. I feel that the right to protect that investment, even if we are a large unit and sell that merchandise in our own way, is as sacred as any man's right to buy it his way, as long as we are freely and openly competing.

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Furthermore, I wish to say that there is no law in this country that forces anyone in these public bodies to go to see any picture that he does not consider satisfactory or suitable. As a matter of fact, the good work that these public bodies have done has been in building up the types of pictures that they want the producers to make and supporting them, and staying away from the type of picture they do not like, because there are not three or four people in a town of 20,000 or 25,000 who can prescribe what everybody else in that town wants to see. Opinions of pictures are very, very different.

* * * * * * *

When this bill was first introduced, it was stated by the public groups who testified—I think it was 2 years ago—that there was a moral issue involved and that this was their predominant interest. In the other block-booking bills we had up until 2 years ago, which was the first time the public was definitely tied in, block booking was attacked on the ground of economics. It was bad economics and was bad for the exhibitor. Finally that was given up, and now the public issue has been brought in, and the claim is that the morals of the motion pictures are bad.

I do not believe that anyone can state seriously today that the part of this industry which lives under our production code is not living up to its obligation from a moral standpoint. I think a cross section of the press of the country will bear that out. Neither do I believe that any honest exhibitor will get up here and testify that he can consult with public bodies and run his theater except in a very general way. For any man to say that he can consult on every picture, if he is using three or four pictures a week, or two pictures a week—it just cannot be done.

Whether the exhibitor buys his pictures singly or collectively, or buys those that, in his opinion, will make for him the most money, for which I do not blame him, if he does not buy pictures that make money for him, that is a bad sales plan for him, just as bad as he calls block booking, in some instances.

We are in favor of a militant public interest. I think that the public has done great things for this industry. I think that this industry needs militant public opinion. We feel it very quickly when any of our people get out of line. They get word to us very quickly that we are stepping over the line.

Block booking and blind buying are as old as the industry itself. This form of selling came into being due to the desire on the part of exhibitors to have a steady and known source of product, week in and week out. If you will notice the announcements of most of these companies, they provide for 52 pictures a year. That is not just an accident. It might be said, Why not 56 or 48? It is 52 because there are 52 weeks in a year, and because the exhibitors, many years ago, when they tied in with one source of supply, wanted to have a picture every week, and the producer had to make 52 releases in order to keep the exhibitor open.

* * * * * * *

It is apparent to me as a salesman exactly what will happen under this bill as it is now written, even though any producer or distributor would be foolish enough to run a risk of the drastic penalties of the bill. For example, an exhibitor comes into my office, and I have 10 pictures in various stages of completion at the studio—which is more than anybody usually has; it is ordinarily five or six—and I take a chance and give him a synopsis or shooting script as far as I can. If the price I quote is right, and he makes money on those pictures, you will never hear another word about them. But if the deal turns out to be bad for him financially on one or all of them, he will take me into court under the terms of this act, and even if I should succeed in winning, I would be put to the terrific expense of defending what I had done in connection with each of these pictures.

* * * * * * *

I cannot figure out the exact mathematical point required by this bill, the point at which the wholesale price is just right as against the individual price quoted. The result would be that if the wholesale price I quoted was to the liking of the exhibitor, he would take it. He could state that either the wholesale or the individual price was too high, but I would be in for a lawsuit.

Here is an industry, gentlemen of this committee, whether you approve this trade practice or not, that is vitally important in itself and very important to American business in general. Its value in foreign countries as a salesman of American merchandise can be attested to by our own Department of Commerce. I am citing this not as a reason why any wrongs that exist should not be righted, if they exist, but because a wrong trade practice, if wrong, should not be made the reason for harming or hog tying an entire industry without the most careful study.

Here is a business doing annually hundreds of millions of dollars, developed to the present importance in size and quality by Americans; an industry that pays higher wages to labor than any other industry in America, barring only two or three small, highly specialized groups; an industry whose people pay more taxes because of the brackets in which they fall than any other industry of similar size; an industry that has gone through the entire depression without one dollar of Government help; an industry which, while billions were being spent to carry on other lines of business, has fought its own financial fight and carried its own burdens.

Different from any other export business, this industry does not send merchandise or material out of the country, such as happens in the exportation of an automobile. Our product is manufactured completely here; only the shadows go out to be shown abroad. It

is entirely a product of American labor and personalities. It is entirely proper that some heed be given to the foreign problems now facing this industry. I cannot believe that they are of no interest to this committee.

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The producers and distributors for whom I am speaking, who spend annually approximately $200,000,000 in production, believe also that they are entitled to the constructive and sympathetic attention of this committee. We do not feel that just because we represent the larger units in this industry we should be denied the right to be consulted or to furnish facts and figures to the fullest extent before legislation as drastic as this is favorably reported on. All of us must bow to public opinion. We recognize that as much as anyone. We say there is as much public opinion in favor of block booking as there is against it, but we say that even if the opinion against block booking were overwhelming and that, as a trade practice, it should be legislated against, we still maintain that this bill is not good legislation from any standpoint except for that of the minority who have sponsored it. We further believe that before legislation of this or any other type is adopted, a thorough and complete study should be made by some agency that will bring in the facts from all parts of the industry and not just from one.

This is no ordinary measure. If it is not passed this year, it does not mean that a lot of people are going to be crucified or injured. We certainly are not opposing the making of a most thorough study, by any Government agency, of the methods of block booking and blind buying; whether or not they have outlived their usefulness. If they have, the problem should be taken up on that basis. We can contribute many important facts to such a study that are not in the possession of this committee and certainly not in the possession of those who wrote this bill.

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In closing, I wish to state that this bill will increase the cost of film for the exhibitor and for the public very definitely. There can be no other way out, since it prohibits in its effect the selling of pictures except one at a time, and it will be a serious problem to meet. You cannot sell pictures in this far-flung country of ours one by one without adding tremendously to the sale cost. Somebody has to pay the freight, and if the exhibitor pays more, the public must pay more. The exhibitor frequently asks the question why he should pay for our failures. My answer is that 35 years of history have shown that he has not paid for our failures. We have paid for our own with the amount by which we have discounted the larger value of our successful pictures, which is the reimbursement we have received for our less successful pictures.

If the time has come when block booking and blind buying as a trade practice have got to fall before public opinion, we bow to it; we are not going to stand in the way of progress. But that is not what these gentlemen want. I say that if these practices are to be prohibited, I say it should be done on the basis that really does the job and that is fair to all parts of the industry.

EXCERPTS FROM THE TESTIMONY OF CHARLES C. PETTIJOHN, GENERAL COUNSEL FOR THE MOTION-PICTURE PRODUCERS AND DISTRIBUTORS ASSOCIATION

This bill is a proposal to destroy the distribution system of the motion-picture business—a system which distributes daily more than 25,000 miles of film to some 17,500 theaters in the United States, with less than a dozen miss-outs per year, and those miss-outs are mostly caused by severe snowstorms or floods. In many of these instances, pictures are delivered by airplane at an expense many times their rental, because it is a tradition of the show business that "the show must go on."

It is a proposal to set aside the distribution system of the motion-picture industry without offering a better one to take its place, which every producer and distributor of pictures would welcome if the substitute was more efficient, economical, and fair to all parties concerned. This bill tears down and destroys. It does not build up.

The motion-picture industry, through years of development and constant improvement, has taken a "peep-show business" with short flickers, shown in ex-barber shops and restaurants, furnished with chairs moved in from the undertaker's parlor, and turned it into an industry which provides a cheap, wholesome form of amusement for more than 80,000,000 of our people each week; which provides all types of theaters, charging various prices of admission, with the same identical pictures; which permits the same identical picture playing a first-run engagement at a rental of from $5,000 to $10,000 to be shown sometimes within 30 days, frequently within 60 days, and almost universally within 6 months, to the smallest, most humble theater in America for from $5 to $10.

That is the system that it is sought here to destroy. I don't know of any business in the world so good to the "little fellow." I would like to buy a Rolls-Royce car the way they buy motion pictures, after 60 days.

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Pictures cannot be sold one at a time if this business is to exist. I want to address myself very briefly to that. You cannot send a salesman 200 miles, feed him, pay his salary, bill, collect, and distribute, make and furnish prints, and lease them singly for from $10 to $20. It cannot be done. There is an economic side to this problem. It is necessary not only for the producer but the exhibitor to know in advance what he is going to play and when he is going to play it. It is as necessary for the motion picture to have well in advance a definite schedule of play dates for pictures as it is for the railroads to have timetables for their trains. Imagine 17,500 theaters, with 25,000 miles of film a day being delivered, and without knowing anything in advance of what you are going to do. It is a ridiculous proposition.

We now come to the subject of blind buying, which simply means contracting for a film that you have not seen. That is, the exhibitor buys them ahead. Does he not know what he is going to get when he buys? Today every exhibitor has all the information about pictures that the producer himself has. Is it possible that theater men do not know what they are going to get when they buy a Shirley Temple picture or a Clark Gable picture, or a Jimmy Cagney picture?

And while we are on the subject of blind buying let me modestly suggest to any complaining theater man that each and every one of their customers who buys a ticket at the box office buys that ticket blindly. They sometimes do not give their customers as much information about the picture as they themselves have had given to them by the producers. Blind buying means buying pictures in advance. That is all it means.

EXCERPTS FROM THE TESTIMONY OF DR. RUSSELL POTTER, OF COLUMBIA UNIVERSITY, REPRESENTING THE NATIONAL BOARD OF REVIEW OF MOTION PICTURES

That Senator Neely's bill is more than it pretends to be is best indicated by the following passage of his report to the Senate last year, in referring to the manner in which the motion-picture industry has solved through self-regulation the problem of decency and good morals on the screen. Senator Neely said, and I quote from his report:

"The recent reformation is purely voluntary and there is no assurance that present imperfect standards will be maintained if this legislation is not passed. Experience teaches that, as a rule, such reforms are sporadic, induced by outbursts of public indignation and are of short duration."

If this is the position to be adopted by the Congress of the United States, we might as well scrap all the processes of democracy in American industry and American life. If reformation or self-regulation is to be suspected because it is voluntary, no industry is safe.

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My thought is that this bill will not correct what needs correction, and that the whole issue is so terribly confused, and the proponents of the bill come in with such a mass of evidence from all of these organizations out over the country, lay persons who have no specific, exact, definite, first-hand knowledge of the complex and complicated industry that has grown up here. You yourself, Senator, yesterday morning and today, frequently asked how many members does such and such an organization have. That is important. And let me say again that every one of these organizations is very fine; its aims are laudable in its own field; but now they are trying to come in and form a mass movement.

STATEMENTS MADE BY GEORGE J. SCHAEFER, PRESIDENT OF THE R. K. O.-RADIO PICTURES CORPORATION

The motion-picture industry have perfected a very simple distribution system. When the negative is completed they strike off an average of approximately 250 positive prints. A branch office in New York which has a large number of theaters to serve will receive as many as 20 positive prints on a given subject; whereas a branch office in Washington, not having the same number of theaters in a concentrated district, may receive only 8 positive prints. The motion picture which is first shown in the Music Hall, New York City, will eventually be shown in every neighborhood in Greater New York, regardless of the importance or size of the theater. The Music Hall, for the right of prior showing, may pay as high as $100,000 in film rental; yet that same motion picture will eventually be shown in the small 500-seat theater, probably charging 15 cents, at a price as low as $15. The motion pictures which are shown in the larger first-run theaters in Washington, such as the Capitol, Palace, Keith's, and Earle, eventually will be shown in every neighborhood in Washington, D. C., and in every city or town serviced by the Washington branch office. The film rental for a first run in Washington may well amount to $10,000, but will be shown in the smallest town or community in Virginia, West Virginia, Maryland, or Delaware at as low as $10.

The 31 branch offices maintained by the various motion-picture producers and distributors have a weekly pay roll of approximately $530,000 and hire 12,500 employees.

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The theory of this bill seems to be that if it were not for the so-called compulsory block booking, the theater management would select for showing only the finest and most suitable pictures, that no motion pictures would be exhibited in the theater except those which the people who patronize the theater should see, not just those which the general public likes and will pay to see. This theory, no doubt appeals strongly to the earnest women's club, church organizations, and other public and pressure groups, who have been persuaded by an organized campaign to actively support this bill.

These sincere people do not understand the fact that the proposed law does not prohibit exhibition of any film, no matter how improper, at any time or place, and no matter how unsuitable. In fact, this bill does not prevent the showing of entirely immoral pictures. We cannot assume that any local exhibitor would put aside pecuniary consideration in the interest of public morals to a greater extent than the producers and distributors. This is best

evidenced by the fact that such pictures as I am about to mention were not produced by any of the major and important producing companies. Neither were they distributed by the organization affiliated with the important producers. In truth, they were distributed by independent companies, and were leased on an individual basis. All of these pictures had very wide circulation, mostly in the independent theaters and in particular in many of the neighborhood houses: Ecstasy, Birth of a Baby, Goona-Goona, and Valley of the Nude.

Again I submit to you that there is nothing in the bill which would prohibit any exhibitor from leasing or showing pictures of this type.

From Mr. Atkinson's opening statement we are led to believe that the exhibitor will consult with his local community as to the so-called suitable pictures which should be exhibited in his theater. There is nothing in the bill which obligates the exhibitor to consult his local community, and bearing in mind that the exhibitor will only lease and book such pictures as are actually produced, can it be assumed that he would put aside commercial considerations in the interest of public morals?

It should also be noted here that this bill will not change the type of stories that are written each year by our well-known authors and published in book or magazine form, all of which are finally purchased by the producers and eventually find their way to the screen.

FROM THE TESTIMONY OF WILLIAM F. ROGERS, GENERAL SALES MANAGER, METRO-GOLDWYN-MAYER PICTURES

From June of last year and up until this present moment I have been the chairman of the so-called negotiating committee representing distributors and have been in conference with a committee representing the Allied States committee, representing the Motion Picture Theater Owners of America, and with every organized group of theater owners in these United States. I have met with them in New York, I have met with them in Washington, I have met with them in California; in fact, I have met with them anywhere it would suit their convenience. Without exception, sirs, there is not one organized group of theater owners in this country that favors the Neely bill, except those gentlemen associated with the Allied States Theaters. That is not an idle remark; that is based upon fact.

Nevertheless, we want to satisfy the Allied States Theaters and their association the same as we do any other group. Even though they may sponsor legislation that we think is detrimental to our interests, we recognize, nevertheless, that they are our customers, and as such we want to satisfy them.

As a result of those various conferences, we did work out an understanding. Unfortunately, not being a lawyer, I stated in a publicity article that an understanding had been reached. They objected very seriously to that, because it was not the proper word, but I do know that in principle the points that we had agreed to concede were acceptable to the majority of their members, notwithstanding the vote of their executive committee. But the men who have their dollars and cents invested in this business do not want the Neely bill; they were satisfied that the trade practice proposals which we advanced would properly protect them.

As Mr. Pettijohn reminds me, it went a great deal beyond the Neely bill. There are some of their members, admittedly so, who are very strong for the Neely bill, but I do know, not from hearsay but by the advice of their own associate, that one or more units of their same organization wanted to deal with us on a trade-practice proposal, and so informed their board of directors, rather than support the Neely bill.

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Senator, if you will permit me to say so, we have proposed in this trade-practice code, aside from the elimination or cancelation privilege that was discussed here, and in addition to that, to eliminate any picture that is objected to on moral, religious, or racial grounds. But let me tell you what we are up against.

For instance, my company a year or so ago believed that the American public and the people of the world would be interested in a classic, so we produced at an expense of $2,800,000 a picture called Romeo and Juliet. We selected the very best stars we could get. From our own pay roll we had Miss Norma Shearer, and we borrowed Mr. Tyrone Power. In addition to them, we used Leslie Howard.

Yet, under my exclusive privilege that exists in my contract, 590 theaters took advantage of that cancelation clause. They did not want to play it. On the other hand, in the same year, again trying to find the public taste, we bought a story that was based on the life of Al Capone and we titled it "The Last Gangster." We did not hold up Eddie Robinson, who was the star of it. Robinson was no idol or hero. To the contrary, he suffered even unto death. Nevertheless, I had 13 cancelations. There could have been 590 cancelations, but only 13 theaters canceled.

That is why I say that these ladies—and I am honestly grateful to them, because I do not subscribe entirely to the fact that the Legion of Decency was responsible for our cleaning our own house—I say that they in cooperation with the theater owners helped us, and in that respect I am grateful; but when they tell me that an anti-block-booking bill is going to cure that condition, I will promise them that whether I sell The Last Gangster alone or as a part of a group, I am still going to sell 10,000 contracts on that picture; there is no doubt about that.

STATEMENT OF ROBERT MONTGOMERY, REPRESENTING THE SCREEN ACTORS GUILD, BEVERLY HILLS, CALIF.

My name is Robert Montgomery; Beverly Hills, Calif.; occupation, an actor.

I want to thank this committee for the privilege of appearing before it. I have been asked to appear before you by the board of directors of the Screen Actors Guild. For the benefit of those of you who may not be familiar with the guild, it is a union of all actors and actresses who appear in motion pictures, whether extras or stars. It is affiliated with the American Federation of Labor. I have served as president of the guild and am at present a member of its board and executive committee.

The guild board and its attorneys have carefully studied this bill and have come to the very definite conclusion that if it should become a law of this country it would cut in half the production schedules of the motion-picture industry. This would directly affect the employment of some 282,000 persons who are employed in the production, distribution, and exhibition divisions of the film industry.

The acting profession which I represent is but one of the 276 crafts employed in the industry. It consists of 8,500 people, approximately 1,600 of whom are employed as actors in small parts, featured roles, character and leading parts in films. The remaining 7,000 are those who play extra parts or small roles known as "bits." With the exception of the small group under contract to the studios, the earning power of these people is extremely limited and depends entirely upon the volume of production.

Later witnesses will present to you, I am sure, expert evidence on the effect the provisions of this bill would have upon all branches of the industry. I shall confine my remarks to one paragraph, No. 7. In this paragraph 12 months of grace are given to the industry, during which time it must readjust its entire structure. I should like to point out that the methods of production and distribution, which are attacked by this bill, while admittedly not perfect, are the result of 30 years' experience and effort. The sponsors of this bill ask the Congress to destroy the entire business structure of one of the largest industries of the United States without offering any alternative plan, except one which has failed every time it has been tried.

The officers and directors of the Screen Actors' Guild feel that they would be neglecting their duty to the people they represent if they did not point out to this committee that the enactment of the Neely bill would bring about a chaotic condition in the motion-picture business, from which, in their opinion, there could be no recovery within a period of 12 months or 12 years.

EXCERPTS FROM THE TESTIMONY OF KENNETH THOMSON, EXECUTIVE SECRETARY OF THE SCREEN ACTORS' GUILD

Like Mr. Montgomery, I am appearing before you at the request of the board of directors of the Screen Actors' Guild. The reason for the guild's interest in this legislation is because it is the belief of the board of directors that employment of actors and all other employees would materially decrease should it be enacted. Furthermore, as the guild is affiliated with the American Federation of Labor and as its members are American citizens, we are naturally deeply concerned by anything which would tend to reduce employment in this or any other industry. Other witnesses have told you that the production of motion pictures is largely financed because of the ability to provide a definite market for the product by selling pictures wholesale to exhibitors in advance of their production. It follows, therefore, that if this practice is stopped there will be less production, and therefore less employment.

Before becoming executive secretary of the guild I spent 15 years of my life as an actor, 10 of those years in motion pictures. During that time I played in at least 50 motion pictures, both sound and silent. During the past 5 years it has been my duty to observe closely production methods of the entire industry. Therefore I feel qualified to state that the substitute for blind selling in the Neely bill will not accomplish what the proponents of the bill expect of it for two reasons: First, it would put the production of motion pictures into a strait jacket which would make it impossible for producers, directors, writers, and actors to use their talents to improve a picture after production, even though by audience reaction at previews grave flaws in writing, action, or direction had been discovered.

Second, and I think this is important, it presupposes that the exhibitor is capable even from a complete synopsis to judge what the finished picture would be like. As I said before, I have acted in at least 50 motion pictures. In every case I have been furnished not with a synopsis but a complete shooting manuscript, and I never knew until I saw the finished picture on the screen and before an audience just what the result of all the effort and expenditure would be. I submit to you that the average exhibitor is no more qualified to judge the entertainment or educational values of a picture from a study of a synopsis than he would be to understand the Einstein theory. I further submit that the substitute suggested would lead to endless litigation. If 10 trained screen writers were asked to make a synopsis of a finished picture after seeing the film, there is little question but that they would submit 10 different synopses. How often, then, would the exhibitor contend that the finished picture delivered to him differed from the synopsis? I think it would occur almost every time he played a picture which did not live up to his expectations at the box office.

STATEMENTS OF MRS. FLORENCE FISHER PARRY, OF PITTSBURGH, PA., WRITER AND BUSINESSWOMAN

My capacity as motion-picture critic has necessitated, over the last 13 years, my seeing on the average of about five motion pictures a week, either in private or at actual exhibition in the theaters. I have been forced at times, sirs, to take some of my little children with me. Very often the contents of the play have been—I would say not often, but occasionally—too mature for their comprehension, and sometimes objectionable, but I had no other recourse.

Now they have reached their maturity, and I might say that they have so far exhibited no criminal tendencies of any kind. If they did, I would be apt to lay it to heredity or some other cause rather than to motion pictures, because it has been my experience that children take motion pictures as they do a great many other kinds of entertainment, and as they do their oatmeal for breakfast. They gobble up the palatable part, and they spit out the lumps or what they don't like.

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Gentlemen, shall we say that there is no moral issue involved in the Neely bill? There is a very profound moral issue involved. There is a challenge to our personal liberty in almost every line of this bill as written. I do not deny its honorable intention of reform. I do not deny the estimable philosophy that lies behind this intention or the sincerity of its sponsor and proponents, but I attest that the bill S. 280 is, as written and submitted to the Committee on Interstate Commerce, inadequate, inoperative, destructive to free commerce, and will only serve to involve the fifth major industry of the United States in a network of litigation, racketeering, and red tape, which in itself will defeat its whole objective.

EXCERPTS FROM THE TESTIMONY OF MRS. PIERCY CHESTNEY, PRESIDENT OF THE MACON LITTLE THEATER, MACON, GA.

I understand that Senators have been swamped with letters urging its passage—letters from many organizations composed entirely, or almost entirely, of women, many of whom are mothers and few of whom have the faintest idea what is meant by block booking. They never get as far as the blind-buying part.

These women have been told that were block booking and blind buying eliminated, enabling an exhibitor to select his pictures, he would select only good pictures and those they want him to buy.

But what they have not been told is that their definition of a good picture and the exhibitor's idea of a good picture differ widely. By "good" they mean a picture of high standards. By "good" the exhibitor means one that will make money; and as an exhibitor is in business to make money and not to preach or teach, that is his main object.

Yesterday Mrs. Bannerman said that 47 of the 48 States had in their parent-teacher association conventions passed resolutions in favor of the Neely bill. I want to tell you what happened in Georgia.

I was the motion-picture chairman and I went to the convention. The president, who at that time was Mrs. R. H. Hankinson, asked the secretary to read a resolution that had been sent from National endorsing the Neely bill. Somebody made a motion that the resolution be accepted. Somebody else seconded the motion, and the president started to put the vote. I asked her if she was going to have any discussion. She asked me if I would like to discuss it. I said, "No; but I would like to ask one question." She gave me permission to ask the question. There were over 500—I have forgotten the exact number—present. I said, "All those who understand about the Neely bill and all about 'block booking,' please raise your hands."

One woman raised her hand. There were both men and women present. I said, "Madame President, I believe that the question was not understood. Will all who understand what 'block booking' and 'blind buying' in the Neely bill mean, raise your hands?"

This same woman raised her hand. I said, "Madame President, will you ask this delegate to explain to the other delegates about block booking?"

The lady who had raised her hand in response to my question said, "Oh, don't ask me to do that. I have heard about it, but I don't know what it is."

So they decided they would not pass the resolution at that time.

I went in succession to several other conventions, still in my capacity as motion-picture chairman for the State, and they did not pass the resolution. Then I slipped up and did not go one year, and they did pass it.

What is true of the Georgia Congress of Parent-Teachers Association is probably true of other State congresses.

The memorandum by Mr. Myers, offered by Mr. NEELY, is as follows:

Memorandum in re S. 280, by Abram F. Myers, chairman of the board, Allied States Association of Motion Picture Exhibitors.

(Answers to the principal points made in the speeches against the bill. Answers to points I, III, IV, and VII are to be found in Senator NEELY's speech for the bill, and are simply repeated here)

I

Point: Action on the bill should await the outcome of the Government's antitrust suit against the Big Eight.

Answer: Contrary to the assertion made, that suit does not involve blind selling. To prohibit compulsory block booking without prohibiting the twin evil of blind selling, would be futile. Moreover, prohibition of the practices calls for detailed affirmative as well as restrictive measures which can more appropriately be included in a statute than in a decree. (Hearings, pp. 40, 563; Com. Rep., p. 15.)

If the suit is not effective in preventing these practices, then it will not fully curb the monopoly, because so long as the Big Eight can force their pictures on the screens they are as a necessary corollary able to keep off the screens the pictures of would-be competitors.

II

Point: Antitrust statute should not be written for a single industry.

Answer: There is no existing statute which bears directly on compulsory block booking or which, by the furthest stretch of the imagination relates to blind selling. The choice is between a special statute or allowing these practices to go unchecked.

Furthermore, Congress has never hesitated to write special legislation for particular industries whenever there was need therefor, as witness the utility holding-company law, the Packers and Stockyards Act, the Grain Futures Act, and special regulatory laws relating to railroads and radio.

III

Point: Because the court [Judge Martin T. Manton] denied an enforcement order for the Federal Trade Commission's anti-block-booking order against a single company—Paramount—there is no ground for legislating against the practice.

Answer: This is tantamount to saying that because an evil practice is not covered by an existing statute, there is no basis for legislating it out of existence. An exact parallel is found in the circumstance that the tying clause contracts employed by the United Shoe Machinery Co. to accomplish full-line forcing were held not to violate the Sherman Act (247 U. S. 32). Congress then enacted section 3 of the Clayton Act which was aimed directly at tying clauses, and this section was given effect by the courts (258 U. S. 451).

This disposes of the implication that because of the Court's ruling legislation on the subject of compulsory block booking would not be valid. There is no difference in principle between compulsory block booking and full-line forcing. In addition, there are the memoranda by Judge Harold M. Stephens (see Neely speech) and Prof. Noel T. Dowling (appendix to committee report) to the effect that legislation on the subject of compulsory block booking and blind selling will be upheld.

IV

Point: Section 3 is too vague and general for a criminal statute.

Answer: (a) Basically the section calls for a test of reasonableness—the reasonableness of the differentials between aggregate prices for complete blocks of pictures and prices for individual pictures or groups of pictures less than complete blocks. After the Supreme Court in the *Standard Oil case* (221 U. S. 1) laid down the "rule of reason" the test of a violation of that statute became whether the defendant had "unduly" or "unreasonably" restrained trade. As thus interpreted, the act was upheld as a criminal statute in *Nash* v. *United States* (229 U. S. 373). The Court, by Mr. Justice Holmes, said:

"But apart from the common law as to restraint of trade thus taken up by the statute, the law is full of instances where a man's fate depends on his estimating rightly; that is, as the jury subsequently estimates it—some matter of degree. If his judgment is wrong, not only may he incur a fine or a short imprisonment, as here; he may incur the penalty of death."

(b) The test provided in the bill is essentially the same as that provided by section 3 of the Clayton Act.

(c) If the criminal provisions are too broad, the courts will protect those accused thereunder.

(d) The bill provides for enforcement by injunction as well as by criminal proceedings, and there is no suggestion that the bill cannot be enforced by proceedings in equity.

V

Point: That the bill would prevent wholesale selling.

Answer: Not a line or sentence says or even hints that a distributor may not lease as many pictures at one time as he and the exhibitor may agree upon. Opponents of the bill have confused wholesale selling with full-line forcing. (Hearings, p. 155.)

The bill does not seek to make a distributor lease any pictures to an exhibitor unless he is so minded. It merely says that a distributor, trading in the channels of interstate commerce, may not require an exhibitor to take pictures which he does not desire in order to obtain those that he does desire. This is the basis of section 3 of the Clayton Act and of all regulations of interstate commerce.

VI

Point: Bill will discourage production of outstanding pictures because there will not be an assured market therefor.

Answer: (a) If, as opponents of the bill contend, compulsory block booking is not now rigidly enforced, or will be relaxed under a voluntary undertaking by the Big Eight, then the assured market theory goes by the board.

(b) The truth is that the Big Eight have looked only to the independent exhibitors for an assured market, while allowing their own theaters and the theaters of one another to pick and choose without being subjected to compulsory block booking. (Hearings, pp. 95–96, 557, 618.) Why should independent theaters have to take and play all the pictures while the trust theaters play only the ones they choose?

(c) Under the standard license agreement (hearings, pp. 556, 594) the distributor undertakes to deliver to the exhibitor only pictures generally released during the term of the contract. The "road showing" of a picture (i. e., its exhibition by the distributor at prices higher than those which generally prevail) is not a general release. Thus distributors can and frequently do "road show" outstanding pictures and thus, in effect, remove them from their

blocks, in order to resell those pictures to the exhibitors the following year at higher prices. (Senate hearings, 1936, p. 60.)

Senators doubtless have observed that pictures such as Romeo and Juliet, Lost Horizon, etc., have been road shown at the National Theater for admissions as high as $1 or $1.50. That meant that those pictures were taken out of the blocks—out of the assured market—by the distributors themselves.

This has a direct bearing on a colloquy which occurred on Friday:

"Mr. BARKLEY. * * * If the producers of that picture and other pictures had to depend on their ability to sell it as a single production to all the moving-picture theaters in the United States, I am wondering whether, in view of its cost of production, they would incur the risk necessary to produce the kind of picture that everybody expects from Gone With the Wind.

"Mr. WHITE. My answer is that, in my opinion—and I base the opinion on what is in the record—such pictures would not be produced in the United States." (CONGRESSIONAL RECORD, p. 9132.)

(d) Gone With the Wind will undoubtedly be road shown for at least a year before it is generally released. The distributor, exploiting it singly, will bleed it white before releasing it to the independent exhibitors. In other words, when they have an assured box-office success, the distributors ignore their assured market. Compulsory block booking forces upon the independent exhibitors the bad pictures; they do not get the outstanding pictures under their contracts until the distributors have squeezed the last penny out of them.

VII

Point: Exhibitors exercise their cancelation privilege improvidently; therefore they would not choose pictures wisely under the bill.

Answer: (a) No cancelation figures are contained in the record. The figures, in every instance, cover play dates, not cancelations. The number of play dates a picture receives is mainly determined by the selections or rejections by the producer-owned theaters and the extended and repeat runs forced by the distributors.

(c) The House hearings (pp. 471–472, 547) show how Paramount forced independent exhibitors to give extended playing time to the Mae West pictures. Incidentally, these very pictures were primarily responsible for the outburst of public indignation which led to the formation of the Legion of Decency.

VIII

Point: Cancelation of a picture gives it wonderful advertising value.

Answer: Agreed. Proponents of the bill advocate a right of selection at the time the pictures are contracted for and before they are put into circulation. Opponents insist that a cancelation provision, which they propose to offer, is the solution of the problem. These inconsistencies appear in Senator WHITE's speech, page 9134 (bottom of second column) and page 9136 (middle of column 1).

IX

Point: A new motion-picture code granting a cancelation privilege has already gone into effect.

Answer: (a) At the hearing the following occurred with respect to the proposed code, called an "agreement" (p. 212):

"Senator WHITE. That is your proffered offer or agreement, or is that the existing agreement?

"Mr. RODGERS (of Metro). No; this is what we have now offered."

(b) As shown by exhibit D, CONGRESSIONAL RECORD, page 9125, the code has been rejected by Allied States Association of Motion Picture Exhibitors.

(c) It has been branded inadequate by the public groups supporting the bill. (Hearings, 510, 517; and see telegram from Dr. Ray Lyman Wilbur, CONGRESSIONAL RECORD, p. 9123.)

(d) The code, if it ever goes into effect, will be a purely voluntary undertaking by the Big Eight. It should be remembered that the highly restricted 10 percent cancelation provided in the N. R. A. Code was withdrawn as soon as N. R. A. was declared unconstitutional. (Hearings, p. 132.) And see enumeration of the "13 broken promises" of the producer-distributors in the hearings, pp. 54–56.

The PRESIDENT pro tempore. The hour of 3 o'clock having arrived, under the unanimous-consent agreement, the Senate will now proceed to vote on the pending bill and all amendments thereto.

Mr. NEELY. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Byrd	Gibson	Hughes
Andrews	Byrnes	Gillette	Johnson, Calif.
Ashurst	Capper	Glass	Johnson, Colo.
Bankhead	Chavez	Green	King
Barbour	Clark, Mo.	Guffey	La Follette
Barkley	Danaher	Gurney	Lee
Bilbo	Davis	Hale	Logan
Bone	Donahey	Harrison	Lucas
Borah	Downey	Hatch	Lundeen
Bridges	Ellender	Hayden	McKellar
Bulow	Frazier	Hill	Maloney
Burke	Gerry	Holman	Miller
Minton	Radcliffe	Stewart	Van Nuys
Murray	Reed	Taft	Walsh
Neely	Russell	Thomas, Okla.	Wheeler
Norris	Schwartz	Thomas, Utah	White
Nye	Schwellenbach	Townsend	Wiley
Overton	Sheppard	Truman	
Pepper	Shipstead	Tydings	
Pittman	Slattery	Vandenberg	

The PRESIDENT pro tempore. Seventy-seven Senators having answered to their names, a quorum is present.

If there be no further amendments to be offered, the question is upon the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and read the third time.

The PRESIDENT pro tempore. The question is on the passage of the bill. [Putting the question.] In the opinion of the Chair, the "ayes" have it.

Mr. HARRISON and Mr. BARKLEY asked for the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk proceeded to call the roll.

Mr. MALONEY (when his name was called). On this vote I have a pair with the senior Senator from Georgia [Mr. GEORGE]. Not knowing how he would vote, I withhold my vote.

Mr. VANDENBERG (when his name was called). On this vote I have a pair with the senior Senator from New York [Mr. WAGNER]. Not knowing how he would vote, I withhold my vote.

The roll call was concluded.

Mr. HATCH. On this vote I have a pair with the Senator from New Jersey [Mr. SMATHERS]. If he were present, he would vote "yea." If I were permitted to vote, I should vote "nay."

Mr. MINTON. I announce that the Senator from North Carolina [Mr. REYNOLDS], the Senator from New Jersey [Mr. SMATHERS], and the Senator from South Carolina [Mr. SMITH] are detained from the Senate because of illness in their families.

The Senator from Michigan [Mr. BROWN], the Senator from Arkansas [Mrs. CARAWAY], the Senator from Iowa [Mr. HERRING], the Senator from West Virginia [Mr. HOLT], the Senator from Nevada [Mr. MCCARRAN], and the Senator from New York [Mr. WAGNER] are absent on important public business.

The Senator from Georgia [Mr. GEORGE] is detained because of illness.

The Senator from Idaho [Mr. CLARK] and the Senator from Wyoming [Mr. O'MAHONEY] have been called to Government departments on matters pertaining to their respective States.

The Senator from Texas [Mr. CONNALLY] is absent on official business. He has a general pair with the Senator from Oregon [Mr. MCNARY], who is also absent on official business. I am not advised how these Senators, if present and voting, would vote.

The Senator from North Carolina [Mr. BAILEY] and the Senator from New Hampshire [Mr. TOBEY] are absent on important public business. They have a pair on this question, and I am advised that if present and voting the Senator from New Hampshire would vote "yea," and the Senator from North Carolina would vote "nay."

The Senator from New York [Mr. MEAD] and the Senator from Massachusetts [Mr. LODGE] are absent on official business. They are paired on this question, and I am advised that if present and voting the Senator from Massachusetts would vote "yea," and the Senator from New York would vote "nay."

The result was announced—yeas 46, nays 28, as follows:

YEAS—46

Andrews	Davis	La Follette	Sheppard
Bankhead	Donahey	Lee	Shipstead
Barbour	Frazier	Lundeen	Stewart
Bilbo	Gerry	McKellar	Thomas, Okla.
Bone	Gillette	Minton	Thomas, Utah
Borah	Green	Murray	Truman
Bulow	Guffey	Neely	Tydings
Byrd	Hayden	Norris	Walsh
Byrnes	Hill	Pittman	Wheeler
Capper	Holman	Reed	Wiley
Chavez	Hughes	Schwartz	
Danaher	Johnson, Colo.	Schwellenbach	

NAYS—28

Adams	Ellender	King	Radcliffe
Ashurst	Gibson	Logan	Russell
Barkley	Glass	Lucas	Slattery
Bridges	Gurney	Miller	Taft
Burke	Hale	Nye	Townsend
Clark, Mo.	Harrison	Overton	Van Nuys
Downey	Johnson, Calif.	Pepper	White

NOT VOTING—22

Austin	George	McNary	Smith
Bailey	Hatch	Maloney	Tobey
Brown	Herring	Mead	Vandenberg
Caraway	Holt	O'Mahoney	Wagner
Clark, Idaho	Lodge	Reynolds	
Connally	McCarran	Smathers	

So the bill (S. 280) was passed.

HIGHWAY BETWEEN CHORRERA AND RIO HATO, REPUBLIC OF PANAMA

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 2163) to authorize an appropriation to meet such expenses as the President, in his discretion, may deem necessary to enable the United States to cooperate with the Republic of Panama in completing the construction of a national highway between Chorrera and Rio Hato, Republic of Panama, for defense purposes, which was to strike out the preamble.

Mr. LOGAN. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

PURCHASE OF AMERICAN ISLANDS FOR NAVAL AND AIR BASES

Mr. LUNDEEN. Mr. President, we are now expending huge sums for our national defense. This year we are spending some $2,000,000,000 for that very purpose. Why not acquire permanent naval and air bases along our Atlantic and Pacific coast lines?

I ask unanimous consent to have printed in the RECORD as part of my remarks certain data concerning islands within 1,500 miles' range of Nicaragua and the Panama Canal Zone. These islands are on the west coast. The United States ought to acquire these strategic and important islands as naval and air bases for our national defense.

An article appearing in News Week of June 19, 1939, reads as follows:

[From News Week of June 19, 1939]

GALAPAGOS TO UNITED STATES?

Though it may be denied, President Narvaez of Ecuador is going ahead with plans to offer the United States control of the strategic Galapagos Islands, about 800 miles southwest of the Panama Canal. A similar idea fell through in 1911. But today Ecuador's Government needs money badly—much more than it needs the islands, which it has never developed. Also Ecuador has been deeply influenced by the good-neighbor policy and would now rather deal with the United States than other governments. Plans being discussed range from offering the islands as security for a $17,000,000 loan to selling them outright for something like $100,000,000. Presumably the Roosevelt administration would favor the idea, but there might be squawks of "imperialism" in Congress.

On Friday, July 14, 1939, I introduced five joint resolutions, Senate Joint Resolutions 170, 171, 172, 173, and 174, bearing on the proposed negotiations. I also ask to have printed in the RECORD the joint resolutions as introduced.

The screen of islands on the west coast and the islands from Greenland to the continent of South America all must be acquired. They are all American and should be under our defense control. Let us act now before it is too late.

I ask that the matter I have referred to be printed in the RECORD at this point, as part of my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The matter referred to is as follows:

HYDROGRAPHIC OFFICE,
Washington, D. C., June 19, 1939.

MEMORANDUM FOR SENATOR LUNDEEN

Subject: Islands within 1,500 miles radii of Panama and Nicaragua (west coast).

Enclosures: (A) List of islands within 1,500 miles radius of Panama; (B) list of islands within 1,500 miles radius of Nicaragua; (C) sheet 2 of Outline Chart of the World; (D) H. O. Chart No. 823; (E) H. O. Chart No. 1007.

1. Enclosures are forwarded herewith in compliance with your verbal request for lists of islands within 1,500-mile radii of Panama and Nicaragua in the Pacific Ocean.

2. Certain small islands in close proximity to coasts of various countries have not been included. For example, Lobos de Afuera Island, off the coast of Peru, is not listed.

3. Distances given are approximate and have been inserted on charts for your convenience.

G. S. BRYAN,
Captain, United States Navy, Hydrographer.

Islands on Pacific side within 1,500-mile radius of Panama

Name	Location and sovereignty	Distance from Panama
Perlas Islands	Gulf of Panama (Panama)	
Galapagos Islands, including Culpepper and Wenman Islands.	Off coast of Ecuador (Ecuador)	850 miles.
Malpelo Island	Off coast of Colombia (Colombia)	300 miles.
Cocos Islands	West of Panama (Costa Rica)	480 miles.
Isla Coiba Isla Jicaron Isla Montuosa Isla Parida Isla Afuera Islas Conteras Islas Secas Islas Ladrones	Off northwest coast of Panama (Panama).	150 to 200 miles.
Caño Island	Off coast of Costa Rica (Costa Rica).	270 miles.

Islands on Pacific side within 1,500-mile radius of Corinto, Nicaragua

Name	Location and sovereignty	Distance from Corinto
Clipperton Island	Off coast of Mexico (France)	1,320 miles.
Revillagigedo Islands	Off coast of Mexico (Mexico)	1,560 miles.
Galapagos Islands, including Culpepper and Wenman Islands.	Off coast of Ecuador (Ecuador)	810 miles.
Cocos Islands	West of Panama (Costa Rica)	400 miles.
Malpelo Island	Off coast of Colombia (Colombia)	600 miles.
Perlas Islands	Gulf of Panama (Panama)	550 miles.
Cano Island	Close off coast of Costa Rica (Costa Rica).	300 miles.
Isla Coiba Isla Jicaron Isla Conteras Isla Montuosa Isla Parida Isla Afuero Islas Secas Islas Ladrones	Close off northwest coast of Panama (Panama).	400 to 450 miles.

INFORMATION CONCERNING SELECTED ISLANDS ON THE WEST COASTS OF MEXICO, CENTRAL AMERICA, AND NORTHERN SOUTH AMERICA

(By Margaret Blachly and John B. McClurkin)

INTRODUCTORY NOTES

The islands included in this compilation are the larger ones appearing on maps for the regions named, published by the Hydrographic Office of the United States Navy Department. With a few exceptions, they are all within a radius of 1,500 miles from Nicaragua and Panama. Many small islands described in the sources consulted as high rocks, cliffs, etc., have been omitted, especially since published information indicates their nonavailability for landing purposes and makes no mention of inhabitants.

The islands are listed under the countries having jurisdiction over them. Population figures are noted in all instances where they were found.

Sources used, and any abbreviations adopted to denote them, appear below:

MAPS

U. S. Navy Department—Hydrographic Office:
- North America. Atlantic and Pacific coasts * * * including Gulf of Mexico, Caribbean Sea, and Panama Canal. No. 526. 12th edition, Dec. 1930.
- Pacific Ocean, compiled from latest information to 1938. No. 1500. 46th edition, April 1939.
- South Pacific Ocean. Sheet 1, including the west coast of South America. No. 823. 1st edition, July 1937.

BOOKS

U. S. Hydrographic Office:
- H. O. No. 174, South America Pilot, Vol. III (west coast). 3d edition, 1928 (VK961.U57, 1927). H. O. 174.
- H. O. No. 84, Sailing Directions for the west coast of Mexico and Central America. 8th edition, 1937 (VK949.U6, 1937). H. O. 84.

Encyclopaedia Britannica, 14th edition, 1937 (AE5.E363). EB.
Statesman's Yearbook, 1938 (JA51.S7). SYB.

Appreciative acknowledgment is made of the basic information furnished by Dr. Waldo Schmitt, Curator of the Division of Marine Invertebrates, National Museum, Smithsonian Institution, from his personal experiences in scientific investigations near many of the above-mentioned islands. W. S.

I. MEXICO

1. Cerros (Cedros) Island (off west coast of Lower California): Length, 20½ miles; width, varying from 2 to 9 miles. * * *

It is of volcanic origin and consists of a mass of high, abrupt peaks, the highest of which, Cerros Mountain, has an elevation of 3,950 feet. * * *

The southern part of the island is, in general, barren, but the northern part is comparatively fertile and well wooded. The crests and western slopes of the mountains are covered with a growth of cedars and pines, some of which attain a height of 60 to 70 feet; there is also a species of dwarf oak on the island, and many varieties of shrubs and flowers are found in the ravines. Gold is mined on the island.

* * * * * * *

There is a village on the eastern side of the island about 4½ miles northward of Morro Redondo Point. The economic life of the village centers around a large fish cannery. * * *

* * * * * * *

Repairs to engines can be performed at the village. The cannery has a fairly well equipped machine shop. Competent sea divers with adequate equipment are employed at the cannery at all times. Source: H. O. 84, pp. 78–79.

2. Guadalupe (about 140 miles off coast of Lower California): Length, 20 miles; maximum width, nearly 7 miles. The southern part of the island is very barren, but the northern part has several fertile valleys and some vegetation on the mountains. * * * In 1930 there was a goat-meat cannery near the abandoned barracks on the shore of this cove, and some employees of the cannery were living there. Source: H. O. 84, pp. 42–44.

3. Isabel Island (17 miles from nearest part of mainland), length, about 1½ miles; width, ½ mile. No permanent settlement. Sources: H. O. 84, p. 208. W. S.

4. Las Tres Marias Islands (Cleopha, Magdalena, Maria Madre, San Juanito), 50 to 63 miles off the coast. * * * extend 39 miles in a general northwesterly and southeasterly direction. These islands are of volcanic origin; their western sides are high, inaccessible, barren cliffs, while the eastern sides are generally low and sandy, with some vegetation (H. O. 84, p. 209).

Cleopha, nearly circular in form, diameter about 3 miles (H. O. 84, p. 209).

Magdalena Island, length, 8 miles; maximum width, 4½ miles. The soil of the island is sandy, but there is considerable vegetation, consisting principally of lignumvitae, citrus fruits, cactus, and almost impenetrable thickets of small, thorny trees and brush (H. O. 84, p. 210).

Maria Madre Island, largest of group, length, nearly 12 miles; width, 3 to 6 miles. On the southeast side there is a small settlement of about 20 people who collect salt from a nearby lagoon. Vessels load the salt at a mole near the settlement (H. O. 84, p. 211).

San Juanito, smallest of group, length, 2½ miles; maximum width, 1¼ miles (H. O. 84, p. 211). Source: H. O. 84, p. 209–211.

5. Reville Gigedo Islands (Socorro, San Benedicto, and Clarion): Area, 320 square miles. Uninhabited. Volcanic in origin.

Socorro: As viewed from seaward the island has a barren and uninviting appearance; the ground is covered with a thick and almost impenetrable growth of flat cactus and sagelike brush. * * * The volcanic nature of the island is everywhere apparent; quantities of lava are strewn along the slopes in isolated patches, as if forced up from beneath the surface, and the red soil is plentifully mixed with ashes. * * * The surface of the island is broken by hummocks and craterlike mounds, and in some places is furrowed by deep ravines that are walled with lava. There is some grass, but the vegetation in general is of a low order. On the northern slope of the island, however, the prospect is somewhat more pleasing. A kind of edible bean produced by a vine that runs along the ground grows abundantly on that part of the island.

* * * * * * *

There is an abundance of animal life on the island. Birds, such as robins, canaries, swallows, and blue herons, are plentiful. Along the shores of the island are fish, turtles, crabs, and crawfish, and in the vicinity of the island are sharks, whales, and porpoises (H. O. 84, p. 46).

San Benedicto Island: * * * a barren rock with a length of 3 miles and a maximum width of three-quarter mile (H. O. 84, p. 49).

Clarion (Santa Rosa) Island: * * * It has a length of 5¼ miles, east and west, a maximum width of 2 miles at its western end, and is covered with a thick growth of cactus. * * *

* * * * * * *

The vegetation of the island comprises, besides cactus and grass, a dense growth of weed which has a thick, fleshy, lanceolate leaf, a type of trailing vine having red and yellow flowers, a species of bean, low, thorny bushes, and morning glories.

* * * Animal life was abundant. The island seems to be a place of habitation and a breeding ground for sea birds, of which many thousands were found laying eggs in the sand near the beach or in nests in the clefts of the hills. Besides gulls and gannets, there were doves, owls, crows, and numerous song birds. Several turtles were seen close to the beach. In the water around the island there were numerous whales, sharks, and porpoises (H. O. 84, p. 50–51). Sources: EB vol. 19, p. 240. H. O. 84, p. 46, 49, 50–51.

II. COSTA RICA

1. Cano Island: Length, 1½ miles; width, 1,750 yards. Covered with trees. Source: H. O. 84, p. 330.

2. Cocos Island: About 13 miles in circumference. Uninhabited.

The island is reported to be covered with a dense forest. * * * The soil is fertile and will produce all tropical fruits and staples. There are a number of streams from which a plentiful supply of fresh water may be procured. Fish are abundant and game may be found in the interior.

The following statements are taken from a report of the U. S. S. *Taylor*, dated June 29, 1935:

"An abandoned coffee plantation, the remains of a Costa Rican penal colony, is located on the top of one of the ridges.

"Most of the timber is a pith wood of no value, but a small quantity of very hard wood is found on the higher ground. * * * Rats and a stunted species of formerly domesticated hog were found. Fish are very plentiful, but must be landed smartly, as the sharks are extraordinarily numerous and follow the fish right up to the boat. * * *

* * * * * * *

"The Costa Rican Government appears to have adopted a policy of allowing reputable treasure hunting parties to visit the island, one at a time, under the supervision of the Government, by making a substantial cash payment and agreeing to share with the Government any treasure found." Source: H. O. 84, pp. 54–55.

3. Isla San Lucas (Golfo de Nicoya): Length, about 1¾ miles.

A small but secure harbor, at the head of which there is a Costa Rican penal colony, lies on the northwestern side of the island. Communication with the island is strictly forbidden. Source: H. O. 84, p. 319.

III. PANAMA

1. Isla Coiba: Length, 21½ miles; maximum width, 13 miles.

Population, about 200 (most of whom are connected with the penal colony * * * on the eastern coast).

* * * The interior is quite mountainous and is covered with forest, but there is some swampy land on the west coast. There are several anchorages around its shores, but no harbor in which vessels may be protected from all winds.

This island is used as a penal station, and it is forbidden to land on the island without permission of the Panamanian Government. Sources: H. O. 84, p. 348.

2. Jicaron: Triangle-shaped; length, 3¾ miles; greatest width, 3 miles. Uninhabited. Heavily wooded. Source: H. O. 84, p. 349.

3. Perlas Islands (number of islands and numerous rocks in Gulf of Panama): Area covered, about 450 sq. miles; length of group, about 30 miles; width, about 20 miles.

Population (in the four towns on the islands) about 7,500.

The inhabitants of the islands are a mixture of the native Indians, Panamanians, and Negro races, and in general are friendly and peace-loving. There are many schools in the larger villages, but the people are very poor and, generally speaking, are undernourished. The principal industry is pearl fishing. Some of the smaller islands are owned by the natives, and in a few cases, by residents of Panama City, but most of them are owned by the Republic of Panama, which Government controls the group. Source: H. O. 84, p. 384.

IV. COLOMBIA

1. Gorgona: Length, about 5 miles; width, 1½ miles.

"Gorgona is a beautiful island, well watered, and productive where it has been cultivated."

Fishermen on the island, but no permanent settlement. Sources: H. O. 174, p. 459. W. S.

2. Malpelo Island: "* * * a barren, high, perpendicular rock about 1 mile long. * * * A small quantity of green moss and a few dwarf bushes which grow in its cracks and gullies afford the only verdure it possesses."

Uninhabited. Sources: H. O. 174, p. 454. W. S.

V. ECUADOR

1. Amortajada or Santa Clara Island: Length, a little more than a mile; width "narrow." Probably a few natives. A lighthouse. Sources: H. O. 174, p. 421 W. S.

2. Galapagos Islands (Colon Archipelago): Area, 2,868 square miles. Population (1936), 2,063. Six principal islands, nine smaller ones and many islets "scarcely to be distinguished from rocks."

Production: Sugarcane, cotton, coffee, grain (except rice), vegetables, fruit, hides, alcohol, vinegar, coal (low grade), fish, and fur seal.

Two crops of corn, coffee, and potatoes annually on Cristobal Island.

Statistics, 1918, for El Progreso on San Cristobal Island:

Sugar (pounds)	3,000,000
Coffee (pounds)	300,000
Alcohol (liters)	14,000

Other resources: Sulfur, guano, salt, phosphate of lime, cattle, goats, horses, pigs, fish.

Foreign commerce: Decree of May 18, 1935, forbids all foreign merchant vessels to enter the waters of the Galapagos Archipelago. (Figures on commerce probably would be included with the Ecuadorean province to which the islands are united.) Sources: SYB, p. 855. H. O. 174, p. 443–54. Bulletin of the Pan American Union, November 1931, p. 1143–44; November 1935, p. 885. Telephone conversation with offices of the Pan American Union.

3. La Plata Island: Length, about 3½ miles; width, 1¼ miles at northern end. Native settlement on island. Agriculture and some fishing.

The island "presents a brownish, dried-up appearance, cut up by gray furrows. The western side forms precipitous cliffs, off which are a few small islets. * * * Wood, and frequently turtle, can be obtained here." Sources: H. O. 174, p. 435. W. S.

4. Puna: Length, 29 miles; width, 8 to 13 miles.
Large settlement; Ecuadorean summer resort; tourists; radio station. Sources: H. O. 174, p. 422–23. W. S.

5. Salango: Two miles in circumference. Occasional natives.
"* * * covered with luxuriant vegetation. The island formerly was an anchorage much resorted to by whalers, who came for water and fresh provisions, which are to be obtained from a neighboring plantation."
Large bamboos are found in shoal waters, and fish are plentiful. Sources: H. O. 170, p. 433–34. W. S.

[S. J. Res. 170, 76th Cong., 1st sess.]

Joint resolution to provide for negotiations by the President with a view to acquiring certain islands owned by the Republic of Mexico

Whereas Guadalupe Island, Cerros (Cedros) Island, Isabel Island, Las Tres Marias Islands, and the Revilla Gigedo Islands are of strategic importance and vital for the defense of the Panama Canal; and
Whereas such islands are owned by the Republic of Mexico: Therefore be it
Resolved, etc., That the President is authorized and requested to enter into negotiations, in such manner as he may deem appropriate, with the Republic of Mexico with a view to acquiring by purchase or otherwise Guadalupe Island, Cerros (Cedros) Island, Isabel Island, Las Tres Marias Islands, and the Revilla Gigedo Islands from the Republic of Mexico.

[S. J. Res. 171, 76th Cong., 1st sess.]

Joint resolution to provide for negotiations by the President with a view to acquiring certain islands owned by the Republic of Ecuador

Whereas Amortajada or Santa Clara Island, La Plata Island, Puna, Salango, and the Galapagos Islands are of strategic importance and vital for the defense of the Panama Canal; and
Whereas such islands are owned by the Republic of Ecuador: Therefore be it
Resolved, etc., That the President is authorized and requested to enter into negotiations, in such manner as he may deem appropriate, with the Republic of Ecuador with a view to acquiring by purchase Amortajada or Santa Clara Island, La Plata Island, Puna, Salango, and the Galapagos Islands from the Republic of Ecuador.

[S. J. Res. 172, 76th Cong., 1st sess.]

Joint resolution to provide for negotiations by the President with a view to acquiring Malpelo Island and Gorgona from the Republic of Colombia

Whereas Malpelo Island and Gorgona are of strategic importance and vital for the defense of the Panama Canal; and
Whereas such islands are owned by the Republic of Colombia: Therefore be it
Resolved, etc., That the President is authorized and requested to enter into negotiations, in such manner as he may deem appropriate, with the Republic of Colombia with a view to acquiring by purchase Malpelo Island and Gorgona from the Republic of Colombia.

[S. J. Res. 173, 76th Cong., 1st sess.]

Joint resolution to provide for negotiations by the President with a view to acquiring certain islands owned by the Republic of Panama

Whereas Isla Coiba, Jicaron, and the Perlas Islands are of strategic importance and vital for the defense of the Panama Canal; and
Whereas such islands are owned by the Republic of Panama: Therefore be it
Resolved, etc., That the President is authorized and requested to enter into negotiations, in such manner as he may deem appropriate, with the Republic of Panama with a view to acquiring by purchase Isla Coiba, Jicaron, and the Perlas Islands from the Republic of Panama.

[S. J. Res. 174, 76th Cong., 1st sess.]

Joint resolution to provide for negotiations by the President with a view to acquiring Cocos Island, Cano Island, and Isla San Lucas (Golfo de Nicoya) from the Republic of Costa Rica

Whereas Cocos Island, Cano Island, and Isla San Lucas (Golfo de Nicoya) are of strategic importance and vital for the defense of the Panama Canal; and
Whereas such islands are owned by the Republic of Costa Rica: Therefore be it
Resolved, etc., That the President is authorized and requested to enter into negotiations, in such manner as he may deem appropriate, with the Republic of Costa Rica with a view to acquiring by purchase Cocos Island, Cano Island, and Isla San Lucas (Golfo de Nicoya) from the Republic of Costa Rica.

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (S. 1796) to amend the Tennessee Valley Authority Act of 1933, and it was signed by the President pro tempore.

AMENDMENT OF CIVIL SERVICE RETIREMENT ACT

The PRESIDING OFFICER (Mr. LEE in the chair) laid before the Senate the amendment of the House of Representatives to the bill (S. 281) to amend further the Civil Service Retirement Act, approved May 29, 1930.

Mr. NEELY. I move that the Senate disagree to the House amendment, request a conference with the House on the disagreeing votes of the two Houses thereon, and that the conferees on the part of the Senate be appointed by the Chair.

The motion was agreed to; and the Presiding Officer appointed Mr. NEELY, Mr. BULOW, and Mr. FRAZIER conferees on the part of the Senate.

INVESTIGATION OF VIOLATIONS OF RIGHTS OF LABOR—LIMIT OF EXPENDITURES

Mr. SCHWELLENBACH. Mr. President, some weeks ago the junior Senator from California [Mr. DOWNEY] and I submitted a resolution (S. Res. 126), asking for a continuation of the work of the subcommittee of the Committee on Education and Labor, known as the Civil Liberties Committee.

Since that time I have received many thousand letters on the subject from various parts of the country. I have separated the letters and telegrams which came from heads of national organizations, and at this time I ask unanimous consent that these letters and telegrams be referred to the Committee to Audit and Control the Contingent Expenses of the Senate, to which the resolution was referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. SCHWELLENBACH. I yield; yes.

Mr. HATCH. I do not know whether or not I correctly understood the Senator, but I think he said he had submitted a resolution relating to the extension of the life of the Committee on Civil Liberties.

Mr. SCHWELLENBACH. Yes. Some 3 or 4 weeks ago the junior Senator from California [Mr. DOWNEY] and I submitted a resolution asking for a further appropriation of $100,000 and asking for the continuation of the work of the committee.

Mr. HATCH. I do not know whether or not it is the intention of the Senator from Washington to ask for action on his resolution. I see in the Chamber, however, two distinguished members of the committee, the Senator from Wisconsin [Mr. LA FOLLETTE] and the Senator from Utah [Mr. THOMAS]. I recall that at the last session something was said to the effect that no more funds would be asked for the committee. Without expressing myself about the matter, I should like to hear something from the members of the committee on the resolution.

Mr. LA FOLLETTE. Mr. President, will the Senator yield?

Mr. SCHWELLENBACH. I yield.

Mr. LA FOLLETTE. Near the close of the last session of Congress the Committee to Audit and Control the Contingent Expenses of the Senate reported a resolution which had been submitted by the Senator from Utah [Mr. THOMAS] and myself, providing an additional $60,000 for the work of the committee. The resolution came up under the call of the calendar for consideration of bills and resolutions by unanimous consent, there being no opportunity in the closing days of the session to move to proceed to the consideration of the resolution. At that time, in response to an inquiry, I stated that I believed the sum provided by the resolution would enable the committee to complete its investigation, make its reports, and file such legislative recommendations as the committee, or members thereof, might deem to be warranted as a result of the investigation.

At that time, and for many months prior thereto, we had our attention drawn to a situation in California; and when the resolution was adopted the committee set up a budget, and sent members of its staff to the west coast to begin the investigation of that situation. We believed at the time

that we had sufficient money and sufficient time to make the investigation. However, as the investigation progressed the complexity of the situation kept constantly increasing and opening up before the committee, so that by the time a few months had gone by it became perfectly apparent that, for the reasons I have just stated, the committee could not complete a thorough investigation and hold hearings. Therefore, despite the fact that a great deal of material has been assembled, no hearings have ever been held upon the material, because the committee did not feel that the investigation had progressed to the stage where hearings were warranted and justified.

Having made that statement at a time when any one Senator who desired to do so might have prevented the adoption of the resolution providing an additional $60,000, I have kept both the letter and the spirit of the statement. In response to the Senator's inquiry, however, I will say that I think a perusal of the data the committee has already assembled will convince any person that the investigation should be completed.

Mr. THOMAS of Utah. Mr. President, will the Senator yield?

Mr. SCHWELLENBACH. I yield to the Senator from Utah.

Mr. THOMAS of Utah. I concur in everything which has been said by the chairman of the subcommittee, the Senator from Wisconsin [Mr. LA FOLLETTE]. Our work to date has been of an extremely conscientious character. As the Senator from Wisconsin has said, we have entirely lived up to the implied promise made at the close of the last session. We have introduced proposed legislation as a result of the hearings which have been held; and so far as the work of the committee is concerned, it represents a unit in accordance with the promise which was made. But, Mr. President, in times such as those we are now going through there will be, and there always is, a demand for investigation of adjustments which are being made and difficulties which are being encountered.

Those who are familiar with the hearings which have been held so far realize and know the great worth of merely having this committee in existence. Those who have read our reports realize that corrections and changes have been brought about as a result of the hearings themselves. That is the best kind of service which a committee of the Senate can offer to the Government.

Personally—and I am sure that the Senator from Wisconsin concurs in this statement—I am satisfied with what has been done, provided the legislation proposed is enacted. Having been on the committee for 3 years now, we realize the work it entails. At the same time, there has come to us an understanding of the responsibility of the task.

Knowing what the conditions are as the result of the partial investigation we have conducted, I fully believe that if we do not proceed and hold further hearings, the country will be deprived of some of the benefits of the hearings which have already been held.

Mr. SCHWELLENBACH. Mr. President, I wish very briefly to make a statement in reference to the attitude which has been shown by both the Senator from Wisconsin [Mr. LA FOLLETTE] and the Senator from Utah [Mr. THOMAS]. I am in a particularly good position to testify that they have both religiously insisted on keeping the agreement they made with the Senate at the end of the last session. In fact, I have become rather impatient with them at times because of their insistence on not indicating any desire to have further appropriations for their committee. They have taken the very high position that they agreed not to seek additional appropriations, and that they could not do so.

My interest in this matter arose last fall as a result of an effort on the part of an organization known as the Associated Farmers, which originated in the State of California, and which has extended its influence to a greater or less extent up and down the Pacific coast and into some of the Mountain States. Last fall in the three Pacific Coast States there were initiatives involving questions of labor rights and labor legislation. The instigators of those initiatives were the association known as the Associated Farmers.

Rumors were current throughout each one of the States—I know they were current in my own State—that the Associated Farmers was not a farmers' organization; that it was in fact an organization which was financed by groups which had absolutely no interest in the problems of agriculture, who were merely setting up the organization of farmers for the purpose of obtaining benefits which they thought they could derive through the respectability which they might obtain by having farmers as a front for them. I do not say whether or not those rumors are correct; I do not know. I know I returned to the present session with a firm determination that, if it were possible, through the investigation which this committee had made to ascertain the facts about that matter, I was going to do so. Because of the nature of the various communications which the committee itself has, I do not think it would be either proper or desirable to attempt to reveal definitely the information the committee has. I think that can only be revealed in a hearing in the nature of a public hearing, giving to the people on all sides of the argument an opportunity to be heard.

The National Grange, which is certainly a highly respectable organization, and an organization which cannot be viewed in the light of asking for something of this nature to which it did not feel it was entitled, has asked for the continuation of the investigation. The two great labor organizations of the country ask for the continuation of the investigation.

On April 4 of this year the senior Senator from California [Mr. JOHNSON] inserted in the RECORD a telegram which he had received from the Associated Farmers themselves stating that certain newspaper articles had been written about them, that charges had been made against their organization, accusing them of being an organization which was not really a farm organization, and the Associated Farmers themselves asked that an investigation be made and that the facts be made public.

On the basis of the request of everyone involved, from one of the leading farm organizations, the National Grange, the two labor organizations, the American Federation of Labor and the Congress of Industrial Organizations, and finally the Associated Farmers themselves, the junior Senator from California [Mr. DOWNEY] and I introduced this resolution. It has been reposing peacefully in the Committee to Audit and Control the Contingent Expenses of the Senate, and has not been disturbed there in any way. I think the committee should go into the records of the Civil Liberties Committee, and should determine whether or not hearings should be held upon the facts which the Civil Liberties Committee has in its possession. I think the Committee to Audit and Control the Contingent Expenses of the Senate should determine the amount of money which would be necessary in order to conduct the hearings, and should recommend the adoption of the resolution, carrying such amount as would take care of the requirements.

I appreciate the fact that we on the Pacific coast are far away, and it is rather difficult for us to attract the attention and the sympathetic approval of those who come from other sections of the country, but we do constitute an integral part of the country, we have problems out there, and their proper solution is of interest to the remainder of the country, as is true of the problems of the East and the North and the South. Everyone on the Pacific coast wants this investigation continued.

Mr. President, I desire now to conclude by asking that there be printed in the RECORD a copy of the resolution adopted by the State Legisature of the State of California, and certain newspaper editorials upon this question printed in various newspapers.

The PRESIDING OFFICER. Is there objection?

There being no objection, the matters were ordered to be printed in the RECORD, as follows:

Assembly Joint Resolution 46

Relative to civil liberties investigation

Whereas a subcommittee of the United States Senate Committee on Education and Labor was authorized to investigate violations of civil rights in California and other Western States; and

Whereas the subcommittee initiated the investigation but was unable to complete it because of a lack of funds; and

Whereas there has been a widespread public demand for the continuance of the investigation, as evidenced by action taken by such organizations as the National Grange, the American Federation of Labor, the Congress of Industrial Organizations, and others, urging an appropriation of additional funds for the use of the subcommitee; and

Whereas the Associated Farmers of California, Inc., in a telegram to Senator HIRAM JOHNSON, dated April 4, 1939, inserted in the CONGRESSIONAL RECORD on that date, demanded an opportunity to be heard before the subcommittee in respect to charges made against it; and

Whereas Senators SCHWELLENBACH and DOWNEY have introduced Senate Resolution 126 in the Seventy-sixth Congress, providing for an appropriation of $100,000 for use in enabling the subcommittee to continue its investigation; and

Whereas Gov. Culbert L. Olson has already communicated with the chairman of the United States Senate Audit and Control Committee, Senator BYRNES, to support Senate Resolution 126: Now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That this legislature approves of and endorses Senate Resolution 126, now pending in the Seventy-sixth Congress; and be it further

Resolved, That copies of this resolution be sent by the chief clerk of the assembly to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and to each Member of the House of Representatives from California in the Congress of the United States, and to Senator JAMES BYRNES, chairman of the United States Senate Audit and Control Committee.

[From the Labor Clarion, San Francisco, Calif., June 9, 1939]

LA FOLLETTE COMMITTEE

The Grand Lodge of the Brotherhood of Railroad Trainmen is urging the passage by Congress of a resolution (S. Res. 126) to provide for an appropriation of an additional $100,000 for the La Follette Committee, to permit it to complete its investigations, particularly in the States of California, Oregon, and Washington, where the denial of civil liberties is rampant.

The brotherhood declares it is vital to the existence of organized labor to insure the continuation of the work of this committee.

[From Babson's Washington Reports, Confidential Forecasts of Coming Developments, May 15, 1939]

LA FOLLETTE GROUP SHOULD GET FUNDS

Continuation of the activities of the La Follette civil liberties committee now seems probable. Earlier opposition has somewhat faded, particularly since the Dies Committee got its grant of $100,000.

Further, big business is now less concerned over possible witch-hunting proclivities of the La Follette group. This change of front has come about since the National Association of Manufacturers went on the stand and gave an excellent account of itself under hostile fire from the committee's investigators.

The testimony of Tom Girdler, head of Republic Steel, likewise encouraged business to follow the policy of stepping out and meeting its critics head on. Hence, chances now favor the committee's getting an appropriation through this session—possibly $100,000 to wind up its work.

[From the Milwaukee Post of February 8, 1939]

CONTINUE THE CIVIL LIBERTIES COMMITTEE

The Associated Farmers complained that they were mentioned in the La Follette civil liberties committee hearings without having an opportunity to reply. Well, they will have plenty of opportunity if the committee is continued, and there is a bill in the United States Senate to give the committee $100,000 for additional work. No committee has ever paid for itself more handsomely, in results accomplished, than has the Civil Liberties Committee. The bill should pass.

[From the San Francisco News, April 5, 1939]

FINISH THE INVESTIGATION

The La Follette Senate civil liberties committee ought to call the Associated Farmers of California, Inc., on their demand for a fair hearing.

The demand springs from a Washington dispatch in the News from Bruce Catton, N. E. A. correspondent, asserting that "A story of repression and denial of civil rights as startling as anything told of Harlan County in its palmiest days will soon be laid before the country when the La Follette committee submits its report on the Associated Farmers.

Harold E. Pomeroy, Associated Farmers' executive secretary, protests that his organization has been given no hearing to present its side of the case. That is correct.

Investigators for the civil liberties committee spent weeks here this winter, subpenaed scores of witnesses and voluminous files and records, took information on charges of antilabor and vigilante activities, and then suddenly were recalled to Washington. The expected public hearings were dropped. Senator LA FOLLETTE announced that startling evidence had been uncovered, but that he personally was retiring from the civil liberties investigations. From that point the California inquiry has been left hanging in midair, without a word of explanation.

Even those sources closest to and most in sympathy with the inquiry have been mystified by its sudden, unexplained folding up. They have wondered whether it proved "too hot to handle" or whether Senator LA FOLLETTE, jolted by his brother's defeat in Wisconsin, has been impressed with a need to spend less time on civil rights and rebuild his political fences at home. This speculation is not in accord with the Senator's past tireless and fearless efforts.

The committee's secret agents presumably have been summing up their findings, and it is their forthcoming report to which the Washington dispatch referred and to which Mr. Pomeroy took exception. Such a report at best would be unilateral and incomplete. Public hearings would be required to get the whole story.

The News and a host of liberal, A. F. of L., C. I. O., and other organizations have been urging that the California investigation be completed openly. Now, the Associated Farmers' demand for a fair trial ought to make it unanimous.

Worth especial note is Mr. Pomeroy's statement: "Undoubtedly, mistakes have been made by members of the Associated Farmers. * * * We seek to correct our mistakes. We want to solve the agricultural problems of the State on a basis that is fair for all. * * * They can be solved only by an objective consideration of the problems and around the council table."

This expression is encouraging.

Open hearings could turn the spotlight on past mistakes and help the Associated Farmers in this declared intention of dealing justly and peacefully. They would give both the Associated Farmers and their critics the opportunity to "put up or shut up" on such charges as Mr. Pomeroy voiced when he complained that farmers have been provoked "by lawless men acting in the name of labor," and on the charges developed by the La Follette investigators. Extremists of whatever side need to be halted.

So the Senate committee should end the long uncertainty over its California investigation and hasten steps to assure a thorough, impartial inquiry.

[From the San Diego Sun of March 30, 1939]

FINISH THE JOB

The American Federation of Labor's national executive council asks the Senate to continue the Pacific coast investigations by the La Follette Civil Liberties Committee.

Weight is added to this appeal by the fact that it is originated by Daniel J. Tobin, international president of the teamsters, who has gained Nation-wide respect for his sensible efforts to end the A. F. of L.-C. I. O. war.

The Civil Liberties Committee should finish the California investigations, which were halted without public hearings after several weeks of secret work here by its investigators. Senator LA FOLLETTE has been too retiring about urging the inquiry be completed. Meantime demands for it have increased. The A. F. of L. action should be the signal to bring the movement to a head.

Mr. BYRNES. Mr. President, I desire to make a statement respecting the matter discussed by the Senator from Washington [Mr. SCHWELLENBACH].

I think it was in 1936 that the Committee on Education and Labor was authorized first to make an investigation into so-called violations of civil rights. The authority was continued in 1937. There was a question in 1937 as to how much longer it would continue.

In 1938, as the Senator from Wisconsin has stated, he appeared before the committee, and I think the Senator from Utah appeared at the same time. I believe the RECORD will show that the statement of the Senator from Wisconsin that, if the committee would recommend the amount asked for, the investigation would be ended, was made in the committee, as well as on the floor of the Senate. The statements were recorded by a reporter, and I have a copy of the report, at which time the Senator from Wisconsin stated—I do not recall what the Senator from Utah had to say about the matter—that if the amount then asked for were allowed, the work of the committee would be concluded. There was some discussion as to whether $60,000 would be necessary, but the committee was of the opinion that, in view of the statement that the work of the committee would be concluded, the resolution should be reported with the entire amount included. Thereafter on the

floor of the Senate the Senator from Wisconsin made a statement similar to the one made in the committee to which he has referred. Therefore, I think it was not made solely because one Senator could object, but it was made to the committee, as well as to the Senate.

The Senator from Washington has spoken to me informally on one or two occasions about the resolution offered by him. I know that his purpose in talking to me was to have his resolution reported, though he has not made any specific request that he be given a hearing at any time. Certainly the Committee to Audit and Control the Contingent Expenses of the Senate has had a rule, which it will now enforce, that anyone and everyone who has a resolution before the committee will before adjournment be given an opportunity to appear, and the Senator from Washington will have an opportunity to present his case.

I must say, as I have stated heretofore, that I have always believed that the object of investigations has been to secure information upon which to legislate, and as the result of the investigation in question, covering a period of 2 or 3 years, reports have been made. I do not know that the committee has reported any proposed legislation, but that is a matter with which I am not familiar.

Mr. LA FOLLETTE. Mr. President, will the Senator yield?

Mr. BYRNES. I yield.

Mr. LA FOLLETTE. The Senator from Utah and I have joined in introducing a bill at this session, and it is now pending in the Committee on Education and Labor.

Mr. BYRNES. Of course, the Committee to Audit and Control the Contingent Expenses of the Senate has no legislative power, and I had not noted upon the calendar any bill introduced as a result of the investigation. I think that, in all fairness to Senators, they should know that there never will come a time when somewhere in this country some person will not complain of a violation of his civil rights. If it be the purpose of the Senate to have a permanent committee established, then the Senate should proceed to establish a committee for the investigation of violations of the law. If an investigation is to be made every time there is a complaint of violation of civil liberties, manifestly we ought to make this committee a permanent one, established by action of the Senate, which would be entirely satisfactory to the Committee to Audit and Control the Contingent Expenses of the Senate. The resolutions of investigation reported by the Committee to Audit and Control the Contingent Expenses of the Senate have been of an entirely different character. Their purpose has not been to establish a permanent committee.

In this case for 3 years the work of this subcommittee has continued. So far as my own views are concerned, I believe that whenever there is a violation of civil liberties it ought to be investigated by the Department of the Government having the power to enforce the law, if there is a violation, and because I so believe, upon my motion, the Appropriations Committee this year not only gave to the Department of Justice the amount of money it requested for the investigation of violations of civil liberties, but further, upon my motion, the amount was increased and then it was specifically provided in the bill that of the total amount $50,000 should be available for the purpose of investigating violations of civil liberties. The balance of the appropriation is available for prosecution. However, the Department of Justice has the power to investigate violations.

Inasmuch as reference has been made to the situation in California, it should be said that the Attorney General advised the Committee on Appropriations and advised me personally that with the funds made available as the result of the Senate action, an investigation was to be made by the Department of Justice of the complaint made as to the occurrences in the State of California particularly. That was a month or 6 weeks ago. I do not know what has been done since the 1st of July. Members of the Senate know those funds did not become available to the Department of Justice until July 1. However, the Department now has a fund available for the purpose not only of prosecuting but of investigating violations of civil liberties. If, notwithstanding that, the Senator from Washington desires to ask for further consideration by the Committee to Audit and Control the Contingent Expenses of the Senate, as I have stated heretofore, he will be notified of the hearings and invited to attend.

STANDARDS OF LABOR UNDER GOVERNMENT CONTRACTS

Mr. WALSH. Mr. President, I move that the Senate proceed to the consideration of Senate bill 1032, calendar No. 667.

The PRESIDENT pro tempore. The question is on the motion of the Senator from Massachusetts.

The motion was agreed to; and the Senate proceeded to consider the bill (S. 1032) to amend the act entitled "An act to provide conditions for the purchase of supplies and the making of contracts by the United States," and for other purposes, which had been reported from the Committee on Education and Labor, with an amendment to strike out all after the enacting clause and insert:

That the act of June 30, 1936 (49 Stat. 2036), entitled "An act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes," is hereby amended as follows:

Section 1 is hereby amended by striking out the entire section and substituting in lieu thereof the following:

"SECTION 1. That in any contract made and entered into by any executive department, independent establishment, or other agency or instrumentality of the United States, or by the District of Columbia, or by any corporation all the stock of which is beneficially owned by the United States (all the foregoing being hereinafter designated as agencies of the United States), for the manufacture or furnishing of supplies in any amount in excess of $4,000, there shall be included the following representations and stipulations: (a) That the contractor is the manufacturer of or a regular dealer in the supplies to be manufactured or used in the performance of the contract; (b) that all persons employed by the contractor in the manufacture or furnishing of the supplies required under the contract will be paid not less than the minimum wages as determined by the Secretary of Labor to be the prevailing minimum wages for persons employed on similar work or in the particular or similar industries or groups of industries currently operating in the locality in which the supplies are to be manufactured or furnished under said contract, such minimum wages as determined by the Secretary of Labor in no case to be less than the applicable minimum wages required to be paid by employers subject to section 6 of the Fair Labor Standards Act of 1938 (52 Stat. 1060) to employees in the particular industry or industries, or branches thereof, for which such minimum wages are being determined; (c) that if the applicable minimum wage required to be paid by employers subject to section 6 of the Fair Labor Standards Act of 1938 to employees in the particular industry or industries or branches thereof shall be increased prior to the performance or completion of performance of the contract, all persons employed by the contractor in the manufacture or furnishing of the supplies required under the contract will be paid not less than such increased minimum wage from and after the date such increase shall be effective under the Fair Labor Standards Act of 1938; (d) that no person employed by the contractor in the performance of the contract for supplies shall be permitted to work in excess of 8 hours in any 1 day or in excess of 40 hours in any 1 week; (e) that no person under 16 years of age and no convict labor will be employed by the contractor in the performance of the contract for supplies, and that no person under 18 years of age will be employed in any occupation or industry which the Secretary of Labor has determined to be hazardous or injurious to the health of such persons; (f) that no part of the contract for supplies will be performed in any plants, factories, buildings, or surroundings, or under working conditions which are insanitary or hazardous or dangerous to the health or safety of the employees engaged in the performance thereof. Compliance with the safety, sanitary, and factory-inspection laws of the State in which the work or part thereof is to be performed shall be prima facie evidence of compliance with this subsection; (g) that the contractor will comply with all the terms and conditions of this act, including any and all rules and regulations in force and effect; (h) that the contractor will, on or before entering into any contract with any person for the manufacture or furnishing to him or to the contracting agency of the United States, whether directly or through any middleman or broker, of all or any part of the supplies specifically required under the contract in any amount in excess of $4,000, file with the Secretary of Labor a certificate or certificates executed by each person with whom he proposes to or has entered into such contract, which certificates shall contain the same representations and stipulations required of the contractor."

Section 2 is hereby amended by striking out the entire section and substituting in lieu thereof the following:

"SEC. 2. (a) That any breach or violation of any of the representations and stipulations in any contract for the purposes set forth in section 1 hereof shall render the party responsible therefor liable to the United States of America for liquidated damages, in addition to damages for any other breach of such contract, the sum of $10 per day for each person under 16 years of age or each

person under 18 years of age employed in any occupation or industry which the Secretary of Labor has determined to be hazardous or injurious to the health of such person or each convict laborer employed in the performance of such contract, and a sum equal to the amount of any underpayment of wages due to any employee engaged in the performance of such contract, and for the second breach or violation double such amount due any employee, and for the subsequent breach or violation treble such amount; and, in addition, the contracting agency of the United States shall have the right to cancel the original contract with the contractor and to make open-market purchases or to enter into other contracts for the completion of the original contract, charging any additional cost to the original contractor or to the party responsible for such breach or violation. Any sums of money due to the United States of America by reason of any violation of any of the representations and stipulations in any contract for the purposes set forth in section 1 hereof may be withheld from any amounts due the contractor on any contract or may be recovered from the party responsible for such breach or violation in suits brought in the name of the United States of America; underpayment of wages, including such double or treble damages as may be found due, shall be held in a special deposit account and shall be paid, on order of the Secretary of Labor, directly to the employees who have been paid less than minimum rates of pay as set forth in such contracts and on whose account such sums were withheld or recovered: *Provided*, That no claims by employees for such payments shall be entertained unless made within 1 year from the date of actual notice to the contractor of the withholding or recovery of such sums by the United States of America; (b) any breach or violation of any of the representations and stipulations contained in such certificates as are required under section 1 (h) shall subject the party responsible therefor to the provisions of subsection (a) of this section and of section 3."

Section 3 is hereby amended by striking out the entire section and substituting in lieu thereof the following:

"SEC. 3. The Comptroller General is authorized and directed to distribute a list to all agencies of the United States containing the names of persons or firms found by the Secretary of Labor to have breached any of the agreements or representations required by this act: *Provided*, That such list shall contain the names of all persons who shall be found in a final adjudication by the appropriate court to have interfered with, restrained, or coerced their employees in the exercise of their rights to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, or to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection. Unless the Secretary of Labor otherwise recommends no contracts shall be awarded to such persons or firms or to any firm, corporation, partnership, or association in which such persons or firms have a controlling interest until 3 years have elapsed from the date the Secretary of Labor determines such breach to have occurred."

Section 6 is amended by inserting the following at the end of the third sentence thereof:

"SEC. 6. In the exercise of his power to make reasonable variations and tolerances from minimum-wage determinations, the Secretary of Labor shall take into account the prevailing practices established by collective bargaining in any industry which is the subject matter of such determination."

Section 7 is hereby amended by striking out the entire section and substituting in lieu thereof the following:

"SEC. 7. The words defined in this section, unless otherwise indicated, shall have the following meaning when used in this act, to wit: (a) 'Person' shall include one or more individuals, copartnerships, associations, corporations, trustees, legal representatives, trustees in bankruptcy, or receivers; (b) 'supplies' shall be deemed to include materials, articles, vessels, equipment (including floating equipment), and services of any form, excepting professional, which are required to be furnished under the contract or subcontract."

Section 11 is hereby amended by the addition of the following: ": *And provided further*, That this act as amended shall apply to contracts entered into pursuant to invitations for bids issued on or after 90 days from the effective date hereof.

"SEC. 12. In respect of all contracts subject to the provisions hereof, the provisions of this act and of any regulations of the Secretary of Labor issued hereunder shall be deemed to be controlling, anything in the provisions of section 1 or section 2 of chapter 174 of the act of June 19, 1912 (37 Stat. 137), or of any other act to the contrary notwithstanding.

"SEC. 13. This act may be cited as the 'Public Contracts Act.'"

Mr. TAFT. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. TAFT. Does an amendment to this bill have to be offered to the amendment in the nature of a substitute?

The PRESIDENT pro tempore. The amendment in the nature of a substitute is open to amendment.

Mr. TAFT. After its adoption?

The PRESIDENT pro tempore. No; before its adoption.

Mr. WALSH. Mr. President, I ask unanimous consent that the formal reading of the bill be dispensed with, and that it be read for amendment, the amendment of the committee to be first considered.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WALSH. Mr. President, I desire to make a brief statement about the bill.

The original public-contracts law was enacted following the decision of the United States Supreme Court declaring unconstitutional the N. R. A. Following that decision there was a movement all over the country to go back to the conditions affecting labor conditions which existed prior to and led to the enactment of the N. R. A. It will be recalled that the sudden and severe depression, with millions of men being driven from their places of occupation, led to the rapid development and growth of what are called "chiseling" or sweatshop methods of employment. The restrictions upon the hours of labor under the N. R. A. which were universally agreed to by the industries of the country, and the wage scales which were agreed to generally, were suddenly broken down, with the result that industrial conditions returned to the conditions of cutthroat competition which existed following the depression and prior to the passage of the N. R. A. law.

Briefly stated, the Supreme Court ruled that the Congress had not authority to fix maximum hours of labor and minimum wages for all industries, as distinguished from industries engaged in interstate commerce. The Government found that in its requests for bids, the departments being required to ask for bids under general law, the absence of any limitation or restriction upon hours of labor invariably led to the award of contracts to those who worked their employees the longest hours and paid the poorest wages. In fact, the origin of the present law on the subject in part came to a climax from one particular ruling. The War Department, in asking bids for shoes, found that the particular bidder to whom the contract was awarded had entered into an agreement with his employees to work longer hours than are usual in shoe factories and for less wages. The War Department requested a ruling from the Attorney General, asking if it would be permissible for the Department, in its request for bids, to put a limit upon the working hours of those employed in manufacturing particular commodities which the Government sought to buy. The Department of Justice ruled that, so long as there was a general law which compelled the award of a contract to the lowest bidder, no matter what the labor standards were, no matter what the conditions of employment were, no matter what the wage was, the Government departments must give the contract to the lowest bidder, in the absence of specific legislation to the contrary.

Similar instances arose in contracts for shirts for the Army and Navy, for hosiery, for gloves, for caps, particularly in the case of textiles, but also in many other fields.

As a result the Government contracts were going to sweatshop institutions or industries. While the present law on the subject bears my name, as well as that of a Member of the House, it does so only because I happened to be chairman of the Committee on Education and Labor at the time. As a result of the facts I have stated, the administration proposed to the Congress—and I introduced the bill at its request—that provision be made that in making contracts and purchasing supplies by the Government, limitations upon the hours of employment and minimum-wage provisions should be included in the requests for bids.

The present law was passed in 1936, after deliberation and discussion here in the Senate and the other House. It provided that the requirement setting forth a limited scale of working hours and providing for a minimum wage should apply only to contracts in excess of $10,000. It develops that such contracts represent only about 3 percent of all Government contracts, and in value only about 15 percent of the money spent by the Government for supplies. No question of constitutionality was involved in this instance as in the N. R. A., because it has been ruled that the Government, like a private individual, may specify the hours of work of employees engaged in the performance of any particular job for it, or for which it contracts, or may fix a minimum wage on such work or contracts if it sees fit. So the present law was an effort, within constitutional limitations, to set a standard of reason-

able working hours and a minimum wage by the Government in its purchases of supplies and in its contracts.

The bill now before the Senate is for the purpose of correcting some of the limitations which experience has unfolded and some of the efforts to evade the present law which have been discovered since its enactment, and also for the purpose of bringing it somewhat into harmony with the wage and hour law of last year.

Mr. WHEELER. Mr. President, will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from Montana?

Mr. WALSH. Certainly.

Mr. WHEELER. As I understand the Senator's pending amendment to this bill, it provides that prospective bidders shall be ineligible only when they are found guilty by a court. Is that correct?

Mr. WALSH. Yes. That is one of the provisions of the bill which establishes a so-called blacklist and which I shall discuss later.

Mr. WHEELER. Yes.

Mr. WALSH. Last year, in the bill before Congress at that time and which failed of enactment in the House, there was a provision which forbade a person who was discovered to be violating an order of the National Labor Relations Board to bid for a certain period of time on Government contracts. The bill this year modifies that provision, and provides that no such limitation or restriction or denial shall be inflicted upon anybody who is charged with violating the terms of a contract of this kind unless a court decree finds that there has been such a violation.

Mr. WHEELER. That is what I thought. The bill introduced last year, and to which there was a great deal of opposition, provided that if the Department of Labor issued some decree on the subject, the bidder should be on the blacklist.

Mr. WALSH. I shall come to that a little later. There is in the present public-contracts law a requirement that all supplies costing the Government over $10,000 should be subject to the law. We found that departments of the Government, or bidders, or both, proceeded to evade that provision of the law by making their contracts for a sum which might be less than $10,000. There was one instance of a contract for $9,999.99. There are several instances of contracts being for an amount five or ten dollars less than $10,000. So one of the important amendments of the law incorporated in the bill now before the Senate is a provision that contracts for supplies costing in excess of $4,000 shall come under the provisions of the law. The proposal from the Department fixed the sum at $2,000, but the committee, in deliberating over the matter, in weighing the arguments pro and con, decided that $4,000 probably was a reasonable amount to agree upon. So the first change in the present law provides that all purchases by the Government costing in excess of $4,000 should come under the provisions of the law which fixes a 40-hour week for workers engaged in filling Government contracts, and which also provides for a minimum wage, to be fixed by the Department of Labor.

Mr. DANAHER. Mr. President, will the Senator yield?

Mr. WALSH. I yield.

Mr. DANAHER. In that connection, am I correct in thinking that the language at the top of page 7 which requires that the Secretary of Labor determine the prevailing minimum wages is one of the points upon which a certificate must be issued?

Mr. WALSH. By the subcontractor or the contractor?

Mr. DANAHER. By the contractor.

Mr. WALSH. Yes.

Mr. DANAHER. If a manufacturer in Massachusetts, for instance, bids on a contract for supplies which are to be furnished, let us say, at an Army field in Texas, such manufacturer in Massachusetts must comply, under the terms of the pending bill, if the order be for a purchase amounting to over $4,000, must he not?

Mr. WALSH. Yes.

Mr. DANAHER. So that if the prevailing minimum wage be fixed as the wage which is prevailing in Massachusetts, can the Massachusetts manufacturer compete with a manufacturer, let us say, in a State where a far lower minimum prevailing wage exists, as found by the Secretary of Labor?

Mr. WALSH. There is no minimum wage fixed by the Secretary of Labor for each State. The minimum wage fixed is a rate which is established as a result of the study of the wages paid in all parts of the country in a particular industry.

Mr. DANAHER. Does it not apply at all on the basis of regional area within which minimum rates of wages are established by the Secretary?

Mr. WALSH. It depends upon the particular industry. To an extent the Secretary of Labor may fix a minimum wage in one region as against another, depending upon the particular facts and circumstances, which the law requires the Secretary to take into consideration.

Mr. DANAHER. I understand that. Now, will the Senator yield further?

Mr. WALSH. I yield.

Mr. DANAHER. Then is it not necessarily so that within those particular spheres as to which the Secretary of Labor may fix the prevailing minimum wage, based on the regional or area rate, a manufacturer in one locality who may be paying a rate which is much higher than that paid by a manufacturer in another locality may be found not to be complying?

Mr. WALSH. I assume the method of procedure is that a department of the Government which desires to purchase hosiery, let us say, requests the Secretary of Labor to fix a minimum wage for them to incorporate in their contract, and in the request for bids such minimum wage as fixed by the Secretary of Labor is designated, so that all the bidders in all parts of the country know the minimum wage they are expected to pay, and also know the hours of employment.

Mr. DANAHER. If the Senator will yield further, my fear is that the business will be driven from the manufacturer in one area who is paying a higher rate of wage to the manufacturer in another area who is paying a lower rate of wage, and therefore a premium will be put upon the manufacturer who is paying the lower rate of wages. Can the Senator allay my fears in that particular?

Mr. WALSH. Frankly, I have not had called to my attention the situation about which the Senator speaks. Personally I have always been opposed to preferential rates of wages. I will say to the Senator that the provisions of the pending bill were the result, after much agitation and discussion and some compromises. The bill does not contain the rigid provisions found in the wage and hour law with respect to minimum wages; in other words, it is more or less elastic. But I do not think there has been any suggestion from any source—certainly not before our committee—of the embarrassment or the difficulty which the Senator points out.

Mr. DANAHER. Mr. President, will the Senator yield further?

Mr. WALSH. Yes; but I should like to take up, if I may, several other amendments or changes to the present law which are in this bill. I began with the first amendment, relating to the $4,000 requirement, and have not finished discussing that.

Mr. DANAHER. The question arises because the Senator has addressed himself to the reduction of the minimum, with reference to subcontractors, from $10,000 to $4,000, which necessarily affects people in Massachusetts, and in Connecticut, and in all other States where the manufacturers are fabricators principally, rather than producers principally. Because of that, and because of my fear on the point as to which the Senator says he has not heard the question raised, I had hoped that perhaps we could dispose of that matter with reference to the language at the top of page 7.

The minimum hours and wage law fixes a standard, and that is all right, I am in favor of it; but here we have a very different situation, for the Secretary of Labor is the one who now is going to fix the prevailing rate, and since it lies within the purview of the Department to do it on a regional basis, it is entirely possible that they will wind up by penalizing the manufacturer who pays a high minimum, giving a bonus to the area or the region where a low minimum is paid.

Mr. WALSH. The difficulty is that under the wage and hour law the minimum wage is fixed now at 25 cents. It is absurd to attempt to incorporate in any request for bids for steel a provision for a 25-cent minimum wage. Can we in the Congress determine whether it should be 57 cents, 65 cents, 73 cents, or 79 cents? We cannot. So the proposed law permits the Secretary of Labor, after a study of the whole situation, after a consideration of the wages paid in the industry and of the conditions in the industry, to fix the amount which shall go into the request for bids. Frankly, I do not know of any other way in which it could be handled. If we did not have a provision covering the matter, the minimum wage would be 25 cents in the steel contracts, whereas the wage in that industry as fixed by the Secretary is now 62½ cents, so that when the Government bids for steel that is the minimum wage designated. At the time the Walsh-Healey law was enacted, the wage and hour law was not in operation, and it was impossible for us to fix the standard of wages in connection with all goods purchased from the various industries by the Government.

Mr. DANAHER. If we should strike out the two words "or furnished" from line 5, page 7, it might well be that the Senator would find that the very evil to which I allude might be cured, and in due course it may be that the Senator will comment with reference to his ideas in that connection.

Mr. WALSH. I shall be pleased to give it consideration.

Mr. WHEELER. Mr. President, will the Senator yield?

Mr. WALSH. I yield.

Mr. WHEELER. I wish to see if I understand the matter correctly. The proposed law would do more to correct the situation to which the Senator from Connecticut is objecting than anything else, because, if it were not for such a provision, when the manufacturer in Massachusetts who paid a higher wage than was paid at some other point bid on a Government contract, the Government would be bound to buy from the person who sold at the very cheapest rate and paid the lowest wages. In other words, the Government would be stimulating and helping the sweatshops of the country rather than manufacturers who have to pay high wages. It seems to me that even though there may be some merit to the Senator's objection the pending proposal goes a long way toward correcting the evil.

Mr. DANAHER. Mr. President——

Mr. WALSH. I yield to the Senator from Connecticut to reply to the Senator from Montana.

Mr. DANAHER. Addressing myself particularly to the Senator from Montana, let me say, first, that I have voiced no objection; secondly, that I have raised a question the answer to which I think is highly material.

I have a fear which I should like to have allayed, and the point raised by the Senator from Montana does not begin to reach the situation, as he would have us understand, for the reason that the words "or furnished" at the end of line 5, on page 7, take this situation out of the category explained by the Senator from Montana, for if the prevailing minimum wage were to be paid in the section or region where the goods are to be manufactured that would be one thing, but if the manufacturer at the point of manufacture were to be put in competition with the prevailing rate where the supplies are being furnished as distinguished from being manufactured there would be a different situation.

Mr. WALSH. The words "or furnish" meet such a situation as that.

We all regret the necessity of a law of this kind. I wish the conditions in the industry and business life of the country were such that there was no chiseling, that there were no sweatshops; that the Government could purchase from high-class industries and business establishments which are striving to maintain the best possible standards of working conditions for their employees. But all laws of this kind are the result of abuses and are designed to correct abuses. Unless we have a law of this kind, then shoes will be manufactured in sweatshops; hosiery will be manufactured in sweatshops; caps will be manufactured in sweatshops; Army and Navy supplies will be manufactured in sweatshops; clothing will be manufactured in sweatshops. If there are still sweatshops all those things will be done as they were done to some extent before the original public-contracts law was passed.

The purpose of the law is to give protection to industries and to business establishments that maintain reasonable hours of labor and that pay good wages, so that when they submit their bids they will not be punished and be subjected to the competition from bids of sweatshop producers, but will have an even chance because we will compel those who operate sweatshops to maintain the standards which the others have. That is the philosophy behind the bill. The bill is just as much for the benefit of the fair-minded, progressive, liberal, decent employer as it is for the welfare of employees.

If time permitted, I could give illustrations of the background of the proposed legislation. A few minutes ago I gave an instance of what will be reached by it. I know of an instance of an employer calling his employees together and saying, "I have a chance to obtain a big contract from the Government. I cannot get it if I have to maintain the same standards which my competitors maintain, but if you will agree with me to work longer hours and for less wages, I will get that contract."

Mr. President, is such conduct fair to the employer and to the businessman who is maintaining a first-class labor condition in his factory or shop? Of course, it is not.

In that connection let me read a case which the Board has to deal with. It illustrates the necessities of a law of this kind. I merely read a summary from the report:

> The Sigmund Eisner Co., a New Jersey corporation, carrying on business at four different points in New Jersey, was found guilty of breaching 23 Government contracts.

Even after this law was passed that concern was found guilty of breaching 23 Government contracts.

> The corporation admitted that instructions had been given to its employees to punch their time cards in such a way that the wages earned on a piece-rate basis divided by the hours of labor punched on the time cards would show earnings of at least 37½ cents an hour, even though the number of hours actually worked might have far exceeded the hours punched on the time card.

In other words, they gave instructions to their employees so to manipulate the punch machine that it would show that they were getting a minimum wage of 37½ cents an hour, when they were actually getting much less than that because they were working a greater number of hours than shown on the machine.

That concern violated 23 Government contracts. Should it not be punished; should it not be blacklisted for resorting to such criminal methods? And what about the rights of competitors of this concern—the men who lost the contracts to furnish the Government the supplies because they were willing to pay 37½ cents an hour and work their employees only 40 hours?

I wish to emphasize the fact that it is not pleasant to undertake in the Congress to regulate business. Only a few persons, generally speaking, violate an automobile law; yet we have a law limiting the speed at which one may drive an automobile. The purpose of the law is not to punish those who live up to it, but to check some of those who violate the law occasionally.

So here we are making an effort to provide that when the Government itself spends the taxpayers' money, even if it costs a little more, sweatshops and chiselers and crooked business establishments shall not get contracts but employers who maintain decent conditions for their workers shall be rewarded with contracts.

Mr. NORRIS. Mr. President, will the Senator yield?

Mr. WALSH. I yield.

Mr. NORRIS. I wish to call the Senator's attention to page 11, line 20, which reads as follows:

> Section 6 is amended by inserting the following at the end of the third sentence thereof—

Then comes the matter to be inserted, beginning as follows:

> SEC. 6. In the exercise * * * of his power—

And so forth. That may be a misprint. If we pass the bill in this form there would at least be a grammatical error there. Evidently "Sec. 6," in line 22 should be omitted, be-

cause that will appear at the beginning of section 6, and it is not proposed to strike out the entire section 6, but only to make an insertion after the third sentence. Does the Senator get the point I am trying to make?

Mr. WALSH. So that following the third sentence in section 6 of the law there should be inserted the words beginning "In the exercise of his power."

Mr. NORRIS. Yes. Omit "Sec. 6" there; otherwise it would appear twice.

Mr. WALSH. That is an error which should be corrected in the phraseology. I thank the Senator for his suggestion.

Mr. DANAHER. Mr. President, will the Senator indulge me 1 minute more?

Mr. WALSH. Yes.

Mr. DANAHER. First, I want it definitely to appear that I have not been nor am I now objecting to this bill.

Mr. WALSH. No; I understand the Senator's position. In fact, he is discussing a very important feature of the pending bill.

Mr. DANAHER. So much so that it is possible I would be the last one here to raise an objection as such. In any event, it has been called to my attention that the Labor Department has fixed, for example, in New England, a minimum rate of 57½ cents with reference to granite workers; let us say that the Labor Department has fixed a rate of 42 cents or 42½ cents in Indiana; and let us say in another State it is 32½ cents. It is perfectly apparent that if the contract is to be based upon the prevailing wage, at the rate prevailing in the section where the manufacture occurs, on the one hand, or where the supplies are to be furnished, on the other, it is very possible that a huge disparity may result, with the necessary conclusion that the business will be driven from the States which are paying the higher rates, to the division or area which is paying the lower or the medium rate. Because of my fear in that connection I want to see labor in my own section protected.

I want to see labor, wherever located, when it is uniformly on a high standard, protected. All I wish is to avoid any possible disparity which will have the effect of giving a bonus to those who are already paying a low rate.

Mr. WALSH. Mr. President, I am informed by the representative of the Department of Labor who is administering this law that the Senator has referred to a particular industry in which there is a great deal of variation in the minimum wage, and that it is one of the few industries as to which it is not possible to obtain a more or less uniform general minimum wage. But even in that field progress is being made. For instance, in the South the pay was 15 cents an hour. The Department of Labor has established a minimum wage of 32 cents an hour, having in mind what is paid in other parts of the country, and yet not going up to the higher or larger minimum wage which is being paid in other sections of the country. So it seems to me to be a matter which we have to leave to the Department of Labor and let it work out the problem.

But I must admit that there is some reason to believe that an advantage may be given in getting a contract from the Government—for instance, in the case of granite—to that section which pays the lowest wage, unless the specifications call for granite from a particular section of the country. Of course, that could be done; and it would overcome the difficulty. Government contracts oftentimes designate granite of a certain type and of certain character. The same thing is true of marble, limestone, and other products.

I shall be glad to hear any suggestion the Senator has to make which would correct that situation; but I think the Department of Labor, insofar as it can, is striving to meet the condition. The Senator has called attention to a special circumstance.

Mr. DANAHER. I thank the Senator for his indulgence and courtesy.

Mr. WALSH. The Senator has been helpful.

Mr. President, the second amendment about which I wish to speak is an amendment to harmonize the child-labor standards in this act with the Fair Labor Standards Act of 1938. The wage and hour law fixes the wage age at 16 years for both females and males, and also permits limiting the age of employment to 18 years in hazardous occupations. The original law passed in 1936, the public-contracts law with which we are now dealing, fixed the age limitation for males at 16 years and for females at 18 years. The second amendment is to conform to the wage and hour law, establishing the age of 16 for both males and females. It does not seem to be controversial.

The other amendments are not particularly controversial. The two most important amendments are the ones to which I have referred, the age limitation for employment, and the extension of the scope of the act so as to include all contracts in excess of $4,000, eliminating the present limitation of $10,000.

The Senator from Montana [Mr. WHEELER] has referred to section 3, which I think I ought to read to the Senate:

> Section 3 is hereby amended by striking out the entire section and substituting in lieu thereof the following:
> "SEC. 3. The Comptroller General is authorized and directed to distribute a list to all agencies of the United States containing the names of persons or firms found by the Secretary of Labor to have breached any of the agreements or representations required by this act: *Provided*, That such list shall contain the names of all persons who shall be found in a final adjudication by the appropriate court to have interfered with, restrained, or coerced their employees in the exercise of their rights to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, or to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection. Unless the Secretary of Labor otherwise recommends, no contracts shall be awarded to such persons or firms or to any firm, corporation, partnership, or association in which such persons or firms have a controlling interest until 3 years have elapsed from the date the Secretary of Labor determines such breach to have occurred."

It seems to me a reading of the amendment indicates what is contemplated.

Mr. THOMAS of Utah. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. LEE in the chair). Does the Senator from Massachusetts yield to the Senator from Utah?

Mr. WALSH. I yield to the able chairman of the committee.

Mr. THOMAS of Utah. Does not the Senator feel that in connection with the amendments he has just discussed it should be pointed out that transferring control of a blacklist from an administrative body, and permitting action only after a judicial body has made a decision, overcomes practically all the objections to the amendment as it was offered last year?

Mr. WALSH. The Senator has emphasized what was called to the attention of the Senate by the able Senator from Montana [Mr. WHEELER]. The amendment last year gave authority to the Secretary of Labor to blacklist—if I may use that word—those who violated orders of the Labor Relations Board. The present amendment—which I understand is now acceptable to all interests, even including most employers—prevents any blacklisting of violators of mere orders of the Board. There must be an actual violation of a court order before anyone is subjected to this particular penalty.

Another amendment broadens the scope of the present act to include within the term "supplies" the construction of vessels, floating equipment, and services, except professional services. Strange as it may seem, the provisions of the law are applicable to the construction of naval vessels, but are not applicable to construction of vessels by the Maritime Commission. As Senators know, the Bacon-Davis law deals with the construction of buildings by the Government. The only materials or structures for which the Government is likely to contract which are not covered by the law, and which would involve a contract of more than $4,000, are ships and vessels.

Mr. President, if there are no other questions, I suggest that we take up the committee amendment and dispose of it.

Mr. NORRIS. Mr. President, there is only one amendment.

Mr. WALSH. The Senator is correct.

Mr. NORRIS. I should like to have the Senator ask that the committee amendment be amended in the particular to which I called his attention.

Mr. WALSH. Yes. I think the same thing may apply to other sections.

Mr. NORRIS. No; I think not. I think section 6 is the only place in the bill where it applies.

Mr. WALSH. The Senator is correct. While the bill embodies a great many changes in the nature of amendments to the present law, as a matter of fact they are all included in one amendment, beginning on page 6 and ending on page 13.

Mr. President, I ask that the committee amendment, which is about to be voted upon, be amended by striking out on page 11, line 22, the words "Sec. 6."

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Massachusetts to the amendment reported by the committee.

The amendment to the amendment was agreed to.

Mr. AUSTIN. Mr. President, on page 12, line 20, I observe the following language:

SEC. 12. In respect of all contracts subject to the provisions hereof, the provisions of this act and of any regulations of the Secretary of Labor issued hereunder shall be deemed to be controlling, anything in the provisions of section 1 or section 2 of chapter 174 of the act of June 19, 1912 (37 Stat. 137), or of any other act to the contrary notwithstanding.

The act to which reference is made is an act limiting the hours of daily service of laborers and mechanics employed upon work done for the United States, or for any Territory, or for the District of Columbia, and for other purposes. The first section of that act really sets the standard of the 8-hour day.

I have read the committee report, on page 6, referring to section 12, which seems to be entirely satisfactory so far as it goes. That report appears to me to refer only to the provisions of section 1 of the act of 1912. My difficulty, which I hope may result in an amendment being accepted by the distinguished Senator from Massachusetts, is that section 2 is also included; and section 2 does not appear to me to be necessary to achieve the object spoken of in the report. Section 2 contains provisions which I feel confident the Senator from Massachusetts does not intend to reduce to a position subordinate to the rules which might be promulgated by the Secretary of Labor under this act, or to the provisions of this act.

Mr. WALSH. Before the Senator reads section 2, may I inquire if we are agreed upon the fact that the act of 1912 limits the hours of employment on Government work to 8?

Mr. AUSTIN. Section 1 does so.

Mr. WALSH. That section makes no provision for working more than 8 hours with extra pay.

Mr. AUSTIN. That is correct.

Mr. WALSH. The so-called Walsh-Healey Act, or the public-contracts law, makes provision for permitting employees to work more than 8 hours, provided an increased wage is paid during the extra hours. So the purpose of the amendment to which the Senator refers, and which is embodied in the pending bill, is to prevent the act of 1912 from interfering with the provisions of the Walsh-Healey Act, which permits more than 8 hours' labor per day under certain conditions, provided extra wages are paid. That is the only purpose. If the Senator thinks the language of the amendment extends beyond that objective, I shall be glad to accept any amendment he may suggest.

Mr. AUSTIN. Mr. President, I have no fault to find with the objective of the learned Senator.

Mr. WALSH. I assumed that we were agreed on it.

Mr. AUSTIN. I would assent to that modification of the act of 1912, and I think it could easily be accommodated by specifically referring to the element to which the Senator from Massachusetts now refers, which is contained in sections 1 and 2 of chapter 174 of the act of June 19, 1912. I think that would be a better way to do it than the method I first had in mind.

Mr. WALSH. Will the Senator read the second section? I have it not before me.

Mr. AUSTIN. Yes. I read the second section of the old act of 1912:

That nothing in this act shall apply to contracts for transportation by land or water, or for the transmission of intelligence, or for the purchase of supplies by the Government, whether manufactured to conform to particular specifications or not, or for such materials or articles as may usually be bought in the open market, except armor and armor plate, whether made to conform to particular specifications or not, or to the construction or repair of levees or revetments necessary for protection against floods or overflows or floods on the navigable waters of the United States: *Provided,* That all classes of work which have been, are now, or may hereafter be performed by the Government shall, when done by contract, by individuals, firms, or corporations for or on behalf of the United States or any of the Territories or the District of Columbia, be performed in accordance with the terms and provisions of section 1 of this act. The President, by Executive order, may waive the provisions and stipulations in this act as to any specific contract or contracts during time of war or a time when war is imminent and until January 1, 1915, as to any contract or contracts entered into in connection with the construction of the Isthmian Canal.

Of course, that date will have to be changed if we are going to include the Panama Canal.

Mr. WALSH. May I suggest to the Senator that I think the difficulty can be removed by inserting on line 23, after the word "controlling," the words "insofar as hours of labor are concerned"? That would limit the authority of the Secretary of Labor merely to hours of labor.

Mr. AUSTIN. It would not quite accomplish the object, because it would be necessary, as I see it, to strike out also the words "or section 2." Then the measure which we are now considering would control section 1 as to hours and not control section 2 as to service in time of war or service on flood-control projects or service on the Isthmian Canal. That is what I want to accomplish, if possible, namely, to exclude from this measure its controlling effect on Government contracts in time of war.

Mr. ELLENDER. Mr. President, will the Senator yield?

Mr. WALSH. I am pleased to yield to the Senator from Louisiana.

Mr. ELLENDER. Has section 2 referred to by the Senator from Vermont anything to do at all with hours of labor?

Mr. AUSTIN. Yes; by reference to section 1.

Mr. ELLENDER. If the amendment suggested by the Senator from Massachusetts should be adopted would not the limitation apply only to hours in both sections?

Mr. AUSTIN. No.

Mr. ELLENDER. Why not?

Mr. AUSTIN. Because section 2 of the act of 1912 enables the President in time of war to exempt any specific contract from the operation of section 1 and section 2. I do not think the safety of this country should be hazarded through arbitrary time, wages, and other standards with respect to the production and supply of necessary materials for our defense in time of war or other great emergency which is referred to in section 2.

Mr. WALSH. Of course, there is a provision in the existing law permitting the Secretary of Labor, for purposes of national defense or the public interest, to suspend the operation of the public-contracts law. Does not the Senator think the amendment I have suggested would tend to liberalize the act of 1912, which, I assume, he desires, by permitting the Secretary of Labor to continue to permit in emergencies and at other times longer working hours than 40 per week at increased wages for the extra hours?

Mr. AUSTIN. I have no complaint about the hours and wages at other times than during time of war.

Mr. WALSH. If the amendment contains the limitation on the authority of the Secretary of Labor to deal only with hours of labor, how is any of the remainder of the law of 1912 affected?

Mr. AUSTIN. The act of 1912 is made subservient to the bill we are considering by the terms of section 12 of the pending bill.

Mr. WALSH. What does the Senator suggest?

Mr. AUSTIN. This is the first time that I have considered this matter, and I make the suggestion with some reservations, but I thought if the words "or section 2," in line 24 were stricken out so that section 12 applied only to section 1, it would accomplish the objective.

Mr. WALSH. Mr. President, section 2, it seems to me, has a special bearing on the proposition with which we are dealing. The only purpose of section 12, on page 12, of the bill before the Senate is to permit the Secretary of Labor to continue to operate as she has been operating under the public contract law by permitting in certain cases the extension of the hours of labor to more than 40, with increased wages. I cannot see any objection to the amendment as drafted and prepared by the department of the Government that simply seeks to overcome the ruling of the Comptroller General which would prevent the operation of the provisions of the laws enacted in 1936.

Mr. AUSTIN. Then I understand the Senator means by that that he would accept an amendment that would strike out the words "or section 2"?

Mr. WALSH. Frankly, I do not think it is particularly important, but if the Senator insists upon it, I do not see any objection to it.

Mr. AUSTIN. I feel it sufficiently important so that it would change my vote. That is how important I regard it.

Mr. WALSH. What does the Senator contend the language on page 12 of this amendment does to modify or change the law of 1912?

Mr. AUSTIN. Section 12 of the pending bill would put both sections of the law of 1912 under the provisions of this bill.

Mr. WALSH. Only for the purpose of permitting the Secretary of Labor to regulate hours.

Mr. AUSTIN. That is sufficient in time of war. It might mean the difference between building a ship for example, under emergency conditions, at the most rapid rate of speed, and having the building of the ship delayed.

Mr. WALSH. If that is the Senator's difficulty, then, the present law itself gives the Secretary of Labor that authority. He has full authority at any time to suspend this law and prevent its being at all operative.

Mr. AUSTIN. By what section?

Mr. WALSH. Section 6 of the existing law which is not amended.

Mr. THOMAS of Utah. Mr. President, I think it is the opening sentence of section 6 of existing law which the Senator has in mind.

Mr. WALSH. I thank the Senator. I read from section 6, as follows:

SEC. 6. Upon a written finding by the head of the contracting agency or department that the inclusion in the proposal or contract of the representations or stipulations set forth in section 1 will seriously impair the conduct of Government business, the Secretary of Labor shall make exceptions in specific cases or otherwise when justice or public interest will be served thereby. Upon the joint recommendation of the contracting agency and the contractor, the Secretary of Labor may modify the terms of an existing contract respecting minimum rates of pay and maximum hours of labor as he may find necessary and proper in the public interest or to prevent injustice and undue hardship. The Secretary of Labor may provide reasonable limitations and may make rules and regulations allowing reasonable variations, tolerances, and exemptions to and from any or all provisions of this act respecting minimum rates of pay and maximum hours of labor or the extent of the application of this act to contractors, as hereinbefore described. Whenever the Secretary of Labor shall permit an increase in the maximum hours of labor stipulated in the contract, he shall set a rate of pay for any overtime, which rate shall be not less than one and one-half times the basic hourly rate received by any employee affected.

Mr. AUSTIN. Mr. President, I call to the attention of the Senator the fact that that section does not answer the same purpose which section 2 of the act of 1912 did, and that in this bill there is a section, numbered section 6, which adds to the section which has just been read by the learned Senator from Michigan the following words:

In the exercise of his power to make reasonable variations and tolerances from minimum-wage determinations, the Secretary of Labor shall take into account the prevailing practices established by collective bargaining in any industry which is the subject matter of such determination.

Which nullifies the effect of the old section 6 so far as it could be used in time of war. I feel sure that the Senator does not want to nullify the power of the President to waive these provisions in time of war, and I also suppose he does not want to have that power taken away with respect to the Isthmian Canal or with respect to flood control.

Mr. WALSH. Evidently the Senator from Vermont considers the inclusion of section 2 in this amendment of great importance and wants it eliminated. I do not consider it of special importance, in view of the limitations I suggested. Therefore, in order to dispose of the matter, I see no objection to striking out, on page 12, line 24, the words "or section 2."

Mr. AUSTIN. I thank the Senator.

Mr. WALSH. I further move, as an amendment to the committee amendment, on page 12, line 24, to strike out the words "or section 2."

The PRESIDING OFFICER. Without objection, the amendment to the committee amendment is agreed to.

Mr. DAVIS. Mr. President, I send to the desk an amendment which I ask to have read.

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The CHIEF CLERK. In the committee amendment it is proposed to insert, between sections 12 and 13, a new section reading as follows:

Nothing in this act shall be construed to apply to persons subject to the provisions of the Railway Labor Act.

Mr. DAVIS. Mr. President, there are a few isolated cases in which railroads furnish steam to the Post Office Department, and so forth, for the convenience of the Government. It seems to me that to inject another Federal agency into their labor relations would create confusion and conflict, as their labor relations are already thoroughly covered by the Railway Labor Act.

Mr. WALSH. Mr. President, that amendment was in the bill of last year that failed of enactment in the House. The Senator from Pennsylvania consulted me about it, and the committee have no objection to it.

The PRESIDING OFFICER. Without objection, the amendment to the committee amendment is agreed to.

Mr. TAFT. Mr. President, I send to the desk an amendment which I ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. In the committee amendment it is proposed to strike out lines 24 and 25 on page 10, and lines 1 to 19, inclusive, on page 11, as follows:

Section 3 is hereby amended by striking out the entire section and substituting in lieu thereof the following:

"SEC. 3. The Comptroller General is authorized and directed to distribute a list to all agencies of the United States containing the names of persons or firms found by the Secretary of Labor to have breached any of the agreements or representations required by this act: *Provided*, That such list shall contain the names of all persons who shall be found in a final adjudication by the appropriate court to have interfered with, restrained, or coerced their employees in the exercise of their rights to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, or to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection. Unless the Secretary of Labor otherwise recommends, no contracts shall be awarded to such persons or firms or to any firm, corporation, partnership, or association in which such persons or firms have a controlling interest until 3 years have elapsed from the date the Secretary of Labor determines such breach to have occurred."

Mr. TAFT. Mr. President, this is a motion to strike out the blacklist provision, a provision that no person shall have a Government contract for 3 years if the court finds that he has violated any of the provisions of the National Labor Relations Act.

In the first place, I do not think that the way to enforce one act is to provide that the violator thereof shall be penalized under another act.

In the second place, I do not think it is a fair provision, because, after all, many of the terms of the National Labor Relations Act are very indefinite.

It is very difficult for a man to determine whether he is violating that act or is not violating it; so that it becomes almost impossible for him to tell what a court may decide. His attorneys may advise him he has not violated the act, and yet some day he may be found to have violated the act.

Mr. MINTON. Mr. President, as I understand, this provision of the bill will only apply if a person has been convicted and found by a judgment of a court to have been guilty of a violation of the National Labor Relations Act. There is nothing speculative about that.

Mr. TAFT. Take this particular term—if the person shall have been found by the appropriate court to have "interfered with" his employees. The term "interfered with" is so vague that we have representatives of the American Federation of Labor before us saying that the words must be taken out of the statute; that no one knows what they mean. And Mr. Madden says that the word "interfere" includes such a case, for instance, as an employer saying to his men, "Those who are forming this other union are Communists"; and even though they are Communists, still Mr. Madden says such a statement is an interference with the employees' rights to self-organization. That and nothing more.

My point is that the language of the Labor Relations Act is so vague that no one knows whether he is violating it or not until the court finally adjudicates the question involved.

Furthermore, I am not perfectly certain that the provision does what the learned author attempts to make it do, because it says, "Found in a final adjudication to have interfered with." As a matter of fact, the court does not find that those charged have interfered with or done a certain thing. What the court finds is that the order of the Board is based on evidence—on some evidence—not on a preponderance of the evidence. A court cannot go back of the Board's findings of fact. As a matter of fact, all it can do is to pass on the law. So that I would say it is impossible for a man to tell in advance what may be held to be an interference with the right of self-determination of unions.

We have held hearings in our committee now for 5 months. There is the additional fact that there is serious doubt whether or not the Board is fair. If we believe what the American Federation of Labor says, what Mr. Green says, what Mr. Padway says, then we must believe that under this Board has occurred the grossest perversion of justice that has ever occurred in the United States, and yet this proposed legislation says that if that Board shall have found that certain things have happened and a court finds that there was some evidence on which that finding could be based, then for 3 years the firm involved and any other firm in which the person owning it has a controlling interest shall be barred from all Government contracts.

I think the Senate recognizes the truth of what I am saying, that these are new words and that nobody yet knows exactly what they mean. That is clear from the fact that the Labor Relations Act itself contains no penalty provision. The court was given the right to enforce the act by injunction, but if we want to enforce this provision it seems to me we should first put in the National Labor Relations Act some language which would impose a penalty of fine or imprisonment for committing the particular acts which are found to be unjust.

But we do not put such language in the National Labor Relations Act for the simple reason that everyone knows this is a new situation. We have not yet arrived at the point where a man knows whether or not he is violating the act. I think it would be most unfair to a large number of men who may go to court to have their rights determined and who may be held to be in the wrong, to say that they shall never get another Government contract.

There is an additional point. In a way it is a kind of blackmail. One of the complaints that employers have made about the actions of the Labor Relations Board deals with what may result, if they take a matter to court, or even if they do nothing and wait for the National Labor Relations Board to take it to court.

The National Labor Relations Board may issue many orders against employers, and even though the orders are not complied with it may fail to take the steps to go to court and have them enforced for a year or 2 years frequently, apparently, because the Board does not want a court test of the particular question involved. We have much complaint from employers that they cannot go to court to have their legal rights determined. They do not dare to because it is so expensive. If they should go to court, the case would be strung out over a year or two, anyway, and then, if they should lose, they would find that they would have to pay all the back wages for 2 years.

Furthermore, the Board in effect can say to an employer, "We have issued an order to you, and if you take the matter to court and should happen to lose you will lose all your Government contracts for 3 years after that time. You will be ruined in many cases. So you had better not take it to court." That is a very effective weapon which the Board can use against employers who wish to have their legal rights determined.

I do not think we ought to mix up the National Labor Relations Act with this act. We had very much the same question before us in the Barkley amendment to the airplane bill, and the Senate decided that it ought not to be put in an extraneous bill. I think the proper thing to do is to eliminate it. If a stronger penalty should be provided, let us put it in the National Labor Relations Act where it belongs and not in the pending measure.

Mr. WALSH. Mr. President, there is no penalty in this bill except the penalty preventing the violators of the law further to bid on Government contracts. There is a provision compelling them to pay extra wages to their employees in case of violation of the wage provisions of the law.

In the present law there is a so-called blacklist provision. In some respects it is broader than the provision in this bill. The Secretary of Labor may put anyone on the blacklist at any time she wants to under the present law, if he violates the public-contracts law. In a moment I will read to the Senate the authority which she has. She has that authority now. The reason why it is not assumed that there is a blacklist provision in the present law is simply because it has not been exercised. Out of 15,000 Government contracts it has only been exercised twice. To my mind, it is unbelievable that the concern whose record I read a few minutes ago to the Senate, which violated 23 Government contracts in 23 particulars, could not be blacklisted without being brought into court. Under the proposed amendment such firms could not be blacklisted unless they were brought to court.

I wish first to read the present law and then call attention to the proposed change, and state why it is proposed:

> The Comptroller General is authorized and directed to distribute a list to all agencies of the United States containing the names of persons or firms found by the Secretary of Labor to have breached any of the agreements or representations required by this act. Unless the Secretary of Labor otherwise recommends, no contract shall be awarded to such persons or firms or to any firm, corporation, partnership, or association in which such persons or firms have the controlling interest, until 3 years have elapsed from the date the Secretary of Labor determines such breach to have occurred.

The present law covers any person or firm found by the Secretary of Labor to have breached any of the agreements or representations required by the act. When the Secretary of Labor finds that situation to exist she may stop that person or firm from obtaining any contracts for 3 years.

That section of the law is proposed to be stricken out, and there is proposed a modified, more liberal provision, which, if I recall correctly, the language abandons the present law giving the authority to the Secretary of Labor, and providing that no one may be blacklisted until the court has found a breach of the contract.

There is one addition that evidently has prompted the Senator from Ohio [Mr. TAFT] to take the position he has taken, and that is the inclusion of the power to blacklist not only violators of this law but violators of the provisions of

law guaranteeing to labor collective bargaining through representatives of their own choosing. In other words, the amendment permits blacklisting for the purpose of preventing the obtaining of Government contracts when a court has decreed a violation of the National Labor Relations Act, as well as when a violation of the Walsh-Healey Act is found to exist. That provision was added at the request of the C. I. O., the American Federation of Labor, and others interested in seeking an effective way of punishing those who violate the labor provisions of this law and of the National Labor Relations Act, but not until there has been an adjudication of a violation of the National Labor Relations law. So, other than broadening the provision to include violations of the National Labor Relations Act, the amendment is much more liberal.

Mr. TAFT. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. HILL in the chair). Does the Senator from Massachusetts yield to the Senator from Ohio?

Mr. WALSH. I yield.

Mr. TAFT. I do not find anything in the amendment which says that the Secretary of Labor must have a court order to find that there is a violation of the Walsh-Healey Act. The only instance in which a court order is required is with relation to the National Labor Relations Act.

Mr. WALSH. The Senator is correct. The court decree applies to a violation of the National Labor Relations Act and not to the public-contract law.

Mr. TAFT. The effect of my amendment would not be to change the general provision imposing a penalty for violation of the Walsh-Healey Act, but merely to prevent the amendment of the committee from establishing a relationship between the National Labor Relations Act and this bill. That is correct, is it not?

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. WALSH. I yield.

Mr. BARKLEY. As I recall, one of the objectives of the Walsh-Healey Act was to harmonize the letting of Government contracts with the requirements of the National Labor Relations Act. The two acts are not altogether separated in their relations, although of course the Walsh-Healey Act rests upon its own foundations.

Mr. WALSH. The Walsh-Healey Act followed the decision of the Supreme Court declaring the National Industrial Recovery Act unconstitutional.

Mr. BARKLEY. That is true. I have forgotten, in the matter of time, whether or not the Walsh-Healey Act was passed subsequently to the National Labor Relations Act.

Mr. WALSH. It was passed in 1936, prior to the National Labor Relations Act. Immediately upon the breakdown of labor conditions, with the chiseling and extreme competition developed as a result of wiping out the N. R. A., the Walsh-Healey Act was proposed to keep the standard fixed under the N. R. A., so far as they related to Government contracts.

Mr. BARKLEY. As I understand the theory of this particular provision, which relates to the National Labor Relations Act, the Government ought not to encourage the violation of its own laws among those who supply it with materials or supplies of any kind. The Government ought to keep its own skirts clear by insisting that its own laws, with respect to the standards under which the supplies are manufactured, shall be observed by those with whom it does business. Otherwise, contractors or manufacturers who complied with the law and observed it with respect to wages and hours would be at a disadvantage, because they would always be outbid by those who did not observe the law. The Government would thus be used as an agency to break down its own law with respect to wages and hours. Is not that correct?

Mr. WALSH. The Senator is correct.

Mr. BARKLEY. So I see no reason why this provision should not apply to the National Labor Relations Act as well as to the previous Walsh-Healey Act.

Mr. WALSH. The provision is so strongly urged by the representatives of labor, for the purpose of providing an opportunity to punish those who violate the law with respect to collective bargaining, that I cannot accept the amendment of the Senator from Ohio [Mr. TAFT], and will leave the decision to the Senate.

Mr. BARKLEY. This provision would apply only after it had been determined by a court of competent jurisdiction that there had been a violation of the National Labor Relations Act. Is not that true?

Mr. WALSH. Exactly. What is worse than violation of the right of labor to engage in collective bargaining, when it is determined by the Supreme Court of the land to be a violation of the law?

Mr. BARKLEY. I agree with the Senator. Even after the Supreme Court had determined that a concern had been guilty of a violation of the act by prohibiting collective bargaining or by refusing to sit down and negotiate, or a violation of any of the other provisions of the National Labor Relations Act, without this amendment the Government might still be compelled to continue to award contracts to violators of the act.

Mr. WALSH. There would be no way of stopping it.

Mr. BARKLEY. If a violator of the act happened to be the lowest bidder, he would have to receive the contract.

Mr. WALSH. That is correct.

Mr. BARKLEY. And he probably would be the lowest bidder merely because he did not comply with the law set up by the Government of the United States to provide a fair method of arriving at wages and hours.

It seems to me the amendment is just and fair, and is not unreasonable.

Mr. TAFT. Is not this amendment in substance the same amendment which the Senator offered to the Airplane Act, which amendment was voted down by the Senate?

Mr. BARKLEY. What difference does it make?

Mr. TAFT. I am merely asking if it is not the same as the amendment which the Senate once rejected.

Mr. BARKLEY. It may be; but the Senate frequently learns things after it takes a position, and corrects its attitude. I am not certain whether or not the language is the same. I do not think it is very material.

Mr. TAFT. Has the Senator from Massachusetts [Mr. WALSH] any other reason than the one I gave for the fact that there is no penalty or fine imposed in the National Labor Relations Act itself? Before we begin to penalize persons under the Walsh-Healy Act, should we not impose a penalty under the National Labor Relations Act if we think a penalty is justified?

Mr. WALSH. Personally, I feel that the performance of work for the Government ought to be a distinct privilege, granted only to the most reputable employers. I do not think chiselers and irresponsible employers should have the privilege of a Government contract. Government contracts ought to go to those who maintain the best and highest standards of employment, the shortest hours, and the best wages, and who are recognized as dealing with their employees in the most acceptable manner, according to law.

Mr. TAFT. Is the Senator familiar with the cases in which employers are unable to determine whether they must deal with the American Federation of Labor or the C. I. O., and in which they act at their own risk, without knowing whether or not they are correct, and without being able to find out until the court determines the question?

Mr. WALSH. I cannot conceive of anyone blacklisting a legitimate employer who raises technical questions of law.

Mr. TAFT. That is what the Senator is proposing to do by the amendment.

Mr. WHEELER. Mr. President, will the Senator yield?

Mr. WALSH. I yield.

Mr. WHEELER. The question the Senator from Ohio raises cannot be raised under this amendment for the simple reason that a dispute between the C. I. O. and the American Federation of Labor would not enter into the question because the employer could be penalized only after the highest court had passed upon the question.

Mr. TAFT. Yes; but an employer may make a contract with the American Federation of Labor, and the C. I. O.

may say, "You should not have made the contract with them; you should have made it with us." When the employer appeals to the Labor Relations Board, the Board may say, as it often has said, "You should have broken your contract with the American Federation of Labor. You should have dealt with the C. I. O." When the employer finally appeals to the court, the court may say "There was some evidence to support the finding of the Labor Relations Board." The court does not find that the Board's decision was right. The court simply finds that there was some evidence to support the finding of the Board; so an employer may find the court telling him that he violated the Labor Act by making a contract with the American Federation of Labor. Courts have so held.

Mr. WHEELER. Of course; but, whether one likes the court or whether he does not, after a finding by the highest Court of the country that a man has violated the law and is guilty, what excuse is there for anyone saying that he may continue as a chiseler and bid on Government contracts?

If I may interrupt the Senator from Massachusetts for just a moment more——

Mr. WALSH. Mr. President, I think I can clear up the whole matter. The decision of the court does not put a contractor on the blacklist. The Secretary of Labor has an option, a discretion, after the decision of the court, but she cannot act until there is a decision of the court. In 15,000 Government contracts she has acted only twice, and she has not yet had a court decision.

Mr. TAFT. Mr. President, the name must go on the blacklist automatically under the law unless the Secretary of Labor chooses to make an exemption. Is not that the fact?

Mr. WALSH. Yes. She has discretion as to whether or not the name shall go on the list.

Mr. TAFT. No; the bill says the list shall contain the names of those persons unless she finds, for some special reason, that there should be an exemption.

Mr. WALSH. "Unless the Secretary of Labor otherwise recommends, no contracts shall be awarded to such persons or firms," and so forth. So she has authority to recommend that the name of a person shall not go on the list because the violation was only a technical one, because it was not a serious one, or for some other reason.

Mr. TAFT. Perhaps it was technical; but the fact is that the name must go on the list, and then no contract may be given to the person unless the Secretary of Labor recommends that he be given special consideration.

Mr. WHEELER. Mr. President, let me interrupt the Senator to say that recently a manufacturer in this country called my attention to the fact that he had bid upon a Government contract, that he was complying with the law, and that he wanted and could afford to pay good wages; but he said, "My competitor boasts of the fact that he can hire girls for five, six, and seven dollars a week." He said, "I grew up with the men in my factory. My grandfather was in the business, my father was in the business, and I am in the business. I want to pay good wages, and I can afford to do so; but," he said, "I cannot do so when my competitor cuts his wages. I have to cut mine, too." He said, "I am not going to go out and face my men and do what my competitor wants." Should not the decent manufacturers of the country be protected when they want to do the right thing, when they want to pay good wages, instead of letting some chiseler come in and take the contract away from them?

Mr. TAFT. If the Senator will let me answer the question——

Mr. WHEELER. Let me finish my question.

Mr. TAFT. I am not objecting to the provision which says if you do not pay wages as required by the Walsh-Healey Act, you will get no contract.

I am perfectly willing to have that provision remain in the bill. I recognize its justice; but I say the National Labor Relations Act is still so indefinite that no employer can know what it means. He cannot tell when he is interfering; people do not agree on what is interference. The slightest little act may be held to be interference, although the union is an American Federation of Labor union, and absolutely free from the employer's domination. That is what the American Federation of Labor is complaining about.

Mr. WHEELER. But the answer to that statement is that the manufacturer is not going to be thrown out until after the highest Court passes upon the matter and definitely says he has violated the law.

Mr. TAFT. But the highest Court only says there was some evidence on which the Labor Board based their decision. The law does not give the Court the right to determine the preponderance of the evidence. Violation of the National Labor Relations Act is not a crime. The Congress have not made it so, because they have known that the act is so indefinite that it is not a sufficient warning to an employer to say that if he violates the act he shall be penalized by being fined or put in jail.

We have not attached any such provision to the National Labor Relations Act for that reason. Why should we come along now and take a backhanded slap at persons who have not had the benefit of Government contracts, who may have opposed the act in perfectly good faith, who thought they were not violating it at all, who were so advised by the best lawyers, but when they finally get up to the Court, the Court says, "Well, we do not think you were violating the act, but there is some evidence upon which the Labor Board might have found that you were, so we are going to affirm the decision"?

Mr. WHEELER. But all that argument is done away with when the court finally says, "You did violate the law."

Mr. TAFT. The court never says that, as a matter of fact.

Mr. WHEELER. Oh, yes; the court does.

Mr. TAFT. No.

Mr. WHEELER. I disagree with the Senator from Ohio. When the court finally finds a manufacturer guilty he knows what the law is, because the court has so found. There is not any of this "thin line" there.

Mr. TAFT. The bill says that even though such a manufacturer immediately complies, even though he does everything he can, for 3 years he cannot get a Government contract.

Mr. WHEELER. I beg the Senator's pardon. We have given discretion to the Secretary of Labor when manufacturers comply with the act. It seems to me there is not any question that even if they violated the act at first, if they comply with it afterward they ought to be permitted to contract.

Mr. DANAHER. Mr. President, will the Senator yield?

Mr. WALSH. I have the floor.

Let me say, in connection with this discussion, that I have already pointed out that there have been only two cases of blacklisting by the Secretary of Labor in the 4 years this law has been in operation. The Senator from Louisiana [Mr. ELLENDER] informs me that 20,000 complaints have been filed with the National Labor Relations Board, only 6 percent of them have reached the Board for action, and less than 20 cases went to the Supreme Court and were adjudicated by it.

Mr. DANAHER. Mr. President, will the Senator yield?

Mr. WALSH. I yield.

Mr. DANAHER. Without reference to the parliamentary situation, but having in mind the observations of the Senator from Montana and those of the Senator from Ohio, I have drafted an amendment to be added after the word "occurred", in line 19, page 11, and I should like to read it into the RECORD:

Provided, That such prohibition shall earlier terminate upon a finding by the Secretary of Labor that such contractor has removed the grounds upon which such adjudication was based.

In that particular there will be ground upon which the 3-year prohibition of an opportunity to contract may be removed. When compliance has been had, and reinstatement has occurred, the contractor is again in the good graces of the Government and is eligible to contract with it.

Mr. WALSH. I do not quite understand what the Senator's amendment would accomplish.

Mr. DANAHER. It would accomplish the point of having the Secretary of Labor find that compliance has been had with the requirements of the law, with all the grounds upon which the court adjudicated that the particular contractor was a violator of the law and hence was subjected to the penalties of section 3.

Mr. WALSH. As I understand, the court makes an adjudication which is sufficient to put an offender on the blacklist unless the Secretary of Labor, who has the authority, intervenes and can save the manufacturer from going on the blacklist.

Mr. DANAHER. No; I beg the Senator's pardon. Once an adjudication has been had the individual automatically goes on the blacklist.

Mr. BARKLEY. Mr. President, the amendment would take away the discretion of the Secretary of Labor after a court has held that there has been a violation. If the violators claim that they have corrected the situation out of which the lawsuit grew, then automatically they go back on the list.

Mr. DANAHER. Not unless the Secretary of Labor so finds.

Mr. WALSH. In other words, the Senator is tightening up the law.

Mr. BARKLEY. Yes.

Mr. TAFT. Will the Senator read his amendment again?

Mr. DANAHER. Yes; I shall be happy to do so.

Mr. BARKLEY. Under the language of the bill, the Secretary of Labor may take all that into consideration, and undoubtedly will do so; but what the Senator does is to compel her or him, whoever it may be, to take certain action after an adjudication of the court holding that a concern had violated the law. The concern might even come in temporarily and say, "We have corrected this situation," and get a contract, and the very next week they might continue the violations out of which the lawsuit grew.

Mr. DANAHER. Mr. President, will the Senator yield to me for a moment?

Mr. WALSH. Yes.

Mr. DANAHER. I point out to the Senator from Kentucky that the way the bill is drawn, there is granted to the Secretary of Labor sole discretion as to whether or not the inhibitions or penalties contained in section 3, lines 13 to 19, shall be removed in the case of any contractor. In other words, if the Secretary of Labor shall refuse to recommend that the individual contractor be again eligible, for a period of 3 years that contractor indeed is debarred.

If we give the Secretary of Labor the opportunity, as a matter of law, to make a finding that the individual has in fact complied by removing the grounds upon which adjudication was predicated, we will then have given opportunity to the contractor to remove the conditions which, after all, we are seeking to remove, and that is why a penalty is inserted. The effort is to coerce action. If we get the action, we will have remedied the situation, and we will again have reinstated the opportunity for the contractor to act.

Mr. WALSH. The amendment pending is the amendment of the Senator from Ohio [Mr. TAFT].

Mr. DANAHER. I realize that.

Mr. WALSH. And we must understand just what its effect would be. It would remove from section 3 the right to put on the blacklist any violator of the National Labor Relations Act, found to be a violator of that law by the Supreme Court. For the committee, I desire to say that this section was given a great deal of attention and thought.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. WALSH. Permit me to finish, and then I will yield. This section was perhaps given more attention than any other provision in the bill. It was submitted to a great many varying interests for criticism, or for suggestions which would be helpful. We finally agreed—I had supposed unanimously—upon the provisions of the section, and I for one feel that we must stand upon this section, and not modify it or change it by amendments which are proposed without being considered by the committee.

I yield to the Senator from Ohio.

Mr. TAFT. Does not the Senator think the amendment is entirely foreign to the purposes of the Walsh-Healey Act?

Mr. WALSH. I would not say foreign; I would say it places a penalty upon the violation of another labor law, other than the Walsh-Healey Act, but, in my opinion, that labor law is far more important than the Walsh-Healey law.

Mr. TAFT. But the removal of the section which I am seeking to remove would not in any way affect the Walsh-Healey Act; it would remain practically the same as before, would it not?

Mr. WALSH. That is true.

Mr. TAFT. Is it not also true that the subcommittee which held the hearings on the pending bill, and to which it was referred, never had a meeting, never made a report to the full committee, and never went over the bill section by section?

Mr. WALSH. I know there were several days of hearings, that the bill was reported to the full committee by myself, and I was asked to point out the changes between the bill of last year and the bill of this year.

Mr. TAFT. It was considered by the full committee, but it was never considered by the subcommittee, according to my recollection, nor do I remember that at the meetings of the full committee this particular provision was discussed at any time.

Mr. WALSH. I do not recall, except that the subcommittee was practically unanimous. I do recall, and I call this to the attention of the Senator from Louisiana [Mr. ELLENDER] and also to the attention of the Senator from Alabama [Mr. HILL], the Senator from Louisiana and the Senator from Alabama both being members of the subcommittee, that we talked about the matter and discussed it frequently at several of the meetings. When we were hearing evidence this matter was debated and discussed by witnesses who appeared before the committee.

Mr. ELLENDER. Mr. President, I do not believe this particular section was discussed to any great extent before the committee as a whole. I really do not remember that it was.

Mr. WALSH. Does not the Senator know that it was clearly pointed out that it was much more liberal, not so narrow, and did not contain such limitations as were contained in the section last year? The subcommittee was practically unanimous, and the first time I heard of the Senator from Ohio objecting is today.

Mr. ELLENDER. That might have been done before the subcommittee, but not before the full committee.

Mr. WALSH. Of course, the same bill was before the committee last year, and very few changes and very few modifications, practically, were made. This section was drafted for the purpose of breaking down and removing the opposition which appeared last year to a somewhat similar provision. All the committee appeared to be pleased at the modification made from last year's provision in this section. However, it was understood any Member could protest any part of the bill in the Senate.

Mr. THOMAS of Utah. Mr. President, will the Senator from Massachusetts yield?

Mr. WALSH. I yield.

Mr. THOMAS of Utah. I think that if the Members of the Senate will refer to page 5 of the committee report, where section 3 is considered and explained, they will find plenty of evidence to show that the section had consideration, as it has been stated it had. There is a full explanation of the section in the committee report. Probably the Senator from Massachusetts would like to read into the RECORD the paragraph on page 5 of the report relating to this section.

Mr. WALSH. I shall be pleased to do that. From page 5 of the report of the committee I read as follows:

> Section 3 modifies the corresponding section in the present act only to the extent that contractors who have violated laws relating to collective bargaining and against whom courts have issued decrees for such violations shall be included among the firms to be

placed on the ineligible list. It will be noted that this amendment is somewhat different from the amendment proposed by the Senate last year which placed firms violating any orders of the Labor Relations Board on the ineligible list.

It was made apparent again and again in the hearings that this completely changed the position of the year before, and required a court decree instead of an order by the National Labor Relations Board to put a violator of the law upon the blacklist. I read further:

This amendment was contained in the bill which passed the Senate but encountered such serious opposition in the closing days of the Seventy-fifth Congress in the House that its ultimate passage was blocked. The objection raised at that time, namely, that this provision tended to deprive contractors cited by the National Labor Relations Board of their statutory right to judicial review of the order, has been overcome in the present bill since it places no contractor on the ineligible list until the courts have finally adjudicated any administrative orders. The policy of this amendment cannot be seriously questioned for the present law places the Government in the anomalous position of subsidizing the violators of its own labor laws by entering into profitable contracts with them.

I repeat that:

The policy of this amendment cannot be seriously questioned for the present law—

Which permits them to have Government contracts after violating Government laws—

places the Government in the anomalous position of subsidizing the violators of its own labor laws by entering into profitable contracts with them.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. WALSH. I yield.

Mr. TAFT. The amendment suggested by the Senator from Connecticut would meet my approval, and I would be perfectly willing to substitute it for the one I have offered. What I am concerned about is that when there is a court decision on a question and the employer immediately conforms, I do not think he ought to be any longer barred. Of course, there are some flagrant violators, but in many cases the employer cannot tell whether or not he is violating the law. If the Senator would be willing to accept that amendment, I will withdraw my amendment.

Mr. WALSH. I am desirous of accepting any amendment which will give the Secretary of Labor discretionary power to act, after a court decree, in the case of a violation of the Labor Relations Act, when the violation has been of a technical character, and the question has been raised in the court simply for the purpose of clarifying the law.

Mr. WHEELER. Mr. President, as the Senator from Connecticut has written out his amendment, he has included the word "permanent," so that it will read that if the Secretary of Labor finds that the employer has permanently cured the defects or the violations, then she will have it within her discretion to award contracts. My own view is that that will be helpful.

Mr. BARKLEY. Mr. President, the way the language is drawn, the law would be automatic. It may be all right, but it would take away from the Secretary the discretion to decide a matter, provided she should find that the cause of the controversy had been removed. I suggest that if an amendment is to be accepted it ought certainly to provide that the removal shall be permanent, because otherwise an employer might remove the defect for a week and get a contract and go right back to the original practice.

Mr. WALSH. Would the Senator from Connecticut object if we had the amendment reported?

Mr. TAFT. I ask unanimous consent that I may withdraw my amendment.

The PRESIDING OFFICER. The Senator from Ohio withdraws his amendment.

Mr. DANAHER. Mr. President, I send an amendment to the desk and respectfully ask that the clerk state it.

The PRESIDING OFFICER. The clerk will state the amendment.

The LEGISLATIVE CLERK. In the committee amendment it is proposed, on page 11, line 19, to add the following proviso:

Provided, That such prohibition shall earlier terminate upon a finding by the Secretary of Labor that such contractor has permanently removed the grounds upon which such adjudication was based.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Connecticut [Mr. DANAHER] to the committee amendment.

Mr. SCHWELLENBACH. Mr. President, will the Senator yield?

Mr. WALSH. I yield.

Mr. SCHWELLENBACH. I will state my objection to the amendment. Let us consider a situation involving a violation of the National Labor Relations Act. There is final determination of that fact by the Court. There is the inclusion of the name of the violator on the list. Then there is a correction of that situation by the employer. As a result of that the Secretary of Labor recommends that, despite the fact that his name is on the list, he shall not be deprived of the contract.

The inclusion of that provision in the law may make it mandatory upon the Secretary to make a finding rather than to leave it to her discretion. Then if a week later the contractor starts violating that same provision of the National Labor Relations Act, or violating any other provision of the National Labor Relations Act, the whole procedure can be started again; and it will take a further adjudication by a court before the time comes when the Secretary of Labor may again put such a violator on the list, and withdraw her recommendation that he be given the right to get Government contracts.

That would mean that the whole 3-year period might expire before the procedure could again be gone through and a final adjudication of the court had.

Mr. WHEELER. Mr. President, that could be done under the law as it is now.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. WALSH. I yield.

Mr. CONNALLY. I ask the Senator from Washington if the National Labor Relations Act does not now carry penalties? If this provision is enacted a violator will be punished twice for doing one thing. If the Labor Relations Act carries its own penalty, and a man who is guilty of having violated the law can be punished under it, why should he be punished under some other act for the same violation?

Mr. SCHWELLENBACH. Mr. President, the Senator well says that the act carries a penalty. The right of injunction exists under the act. The penalty is that violators of the law have to pay the wages during the period of litigation, but it is not a penalty in the ordinary sense of penalty. The Senator from Montana says action can be taken under the law as it now is. The Secretary of Labor has the right to recommend or not to recommend. The Senator from Connecticut pointed out a few minutes ago that the purpose of his amendment was to have a record made, and a finding of fact made by the Secretary of Labor. I think he will concede that the purpose is to enable the bidder to go into court and prevent the Secretary of Labor from stopping him from getting the contract.

Mr. WHEELER. Mr. President, I am sure the Senator misunderstands the amendment of the Senator from Connecticut. All the amendment of the Senator from Connecticut proposes to do is to say that after the court has found that there is a violation, if the Secretary of Labor then finds that the violator has ceased his violation, and has complied with the provisions of the law, then he can be awarded a contract. That is all the Senator's amendment provides.

Mr. WALSH. Mr. President, in view of the fact that the bill must go to the House for action, and then probably a conference must be held, to save time at this late hour the amendment might be accepted and the bill passed. If that is acceptable to the Senator from Washington, I shall be pleased to keep his views in mind when the time comes for action in the conference.

Mr. LUCAS. Mr. President, will the Senator yield?

Mr. WALSH. I yield.

Mr. LUCAS. I should like to be certain that I understand the situation which now exists. Am I correct in saying that

in reality there are two classes of contractors that are affected by the amendment; that is, one class of contractors who apparently in good faith thought they were doing the correct thing, but found out afterward that they had violated the law, and then a second class who perhaps willfully and with some malice aforethought, so to speak, sought a contract for the purpose of chiseling, as the Senator from Massachusetts has frequently said? If there are two classes, if there is the chiseler involved, who violates the law with impunity, and if there is the other man who thought he was acting in good faith, and yet violated the law, then it strikes me there ought to be something in the way of segregation between the two. In other words, both individuals should not receive the same treatment.

Mr. WALSH. Those two classes operate under the public contract law, and those two classes are subjected to the penalties of the law, but it is discretionary with the Secretary of Labor, and it is assumed that she will exercise her authority to punish the malicious and evil group of violators rather than those who commit only a technical violation of the law.

Mr. LUCAS. But does not the amendment of the Senator from Connecticut give the chiseler an opening?

Mr. WALSH. Of course, that is the difficulty of amendments being hastily drawn in a bill of this kind in the closing hours of a session without being submitted to a committee, but, in view of the fact that the bill will go now to the House, and then to conference, for the sake of having the bill passed tonight, I shall accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Connecticut [Mr. DANAHER] to the amendment of the committee.

The amendment to the amendment was agreed to.

Mr. DANAHER. Mr. President, is the bill open to further amendment?

The PRESIDING OFFICER. The bill is still before the Senate and open to further amendment.

Mr. DANAHER. Mr. President, I ask the Senator from Massachusetts to turn to page 7, and in line 6, after the word "contract", I wish to have added the language which I ask the clerk to read. I send forward an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. In the committee amendment, on page 7, line 6, after the word "contract", it is proposed to insert "and which shall be not less than the highest minimum wage paid by any bidder for such contract."

Mr. WALSH. Mr. President, personally I would rejoice at the incorporation of that amendment, but my committee is very strongly opposed to it, and, speaking for them, I must oppose the amendment.

Mr. DANAHER. I may say briefly, Mr. President, that the situation which this amendment seeks to cure was made the subject of much debate earlier in the afternoon, and at that time the Senator from Massachusetts asked if I could give my attention to language of a proposed amendment which would cure the difficulty we then discussed. It seems to me that the language sent to the desk will take care of the difficulty, and it will provide that so far as labor costs are concerned, they shall be equal among the bidders who are offering to supply the Government. That is the purpose of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Connecticut [Mr. DANAHER] to the amendment of the committee.

The amendment to the amendment was rejected.

Mr. HOLMAN. Mr. President, I send to the desk an amendment which I ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. At the end of the bill it is proposed to insert the following new section:

SEC. 14. The provisions of this act shall not be effective during any period that the United States is engaged in war and the President so declares by proclamation.

Mr. WALSH. Mr. President, I personally think that the Secretary of Labor now has that authority, but I see no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon [Mr. HOLMAN] to the amendment of the committee.

The amendment to the amendment was agreed to.

Mr. WILEY. Mr. President, I send to the desk an amendment, which I ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 12, after line 14, it is proposed to insert the following:

SEC. 8. Section 9 is amended by striking out the words "nor shall this act apply to perishables, including dairy, livestock, and nursery products" and inserting in lieu thereof the words "nor shall this act apply to dairy products, or to perishables, including livestock and nursery products."

Mr. WILEY. Mr. President, this amendment was rejected by the committee. The language is: "Nor shall this act apply to dairy products, or to perishables, including livestock and nursery products."

The Public Contracts Act now provides:

SEC. 9. * * * Nor shall this act apply to perishables, including dairy, livestock, and nursery products. * * *

The Secretary of Labor under regulations No. 504, dated September 14, 1936, interpreted this section of the act as follows:

(b) Where the contract relates to perishables, including dairy, livestock, and nursery products ("perishables" covers products subject to decay or spoilage and not products canned, salted, smoked, or otherwise preserved).

I submit that when Congress passed the law back in 1936 it intended that section 9 of the Public Contracts Act should exempt all dairy products. Not one scintilla of evidence can be found anywhere in the legislative record of this measure which warrants the conclusion reached by the Secretary of Labor that section 9 of the act provides an exemption only for "perishable dairy products," or that it was the intention of Congress so to provide. The circumstances under which Congress acted, the reports of committees having the measure in hand, and the testimony before the committees of Congress interpret the effect and scope of the act and make it appear, beyond all doubt, that Congress intended to exempt from operation of the act all dairy products without limitation as to kind, quantity, or quality.

The House Judiciary Committee report on the Walsh-Healey bill, S. 3055, which was transmitted to Congress by Representative HEALEY, contains the following pertinent statement:

Section 9 excludes from the operation of the act articles usually bought in open market—farm, dairy, and nursery products, and transportation and communications contracts.

Any dairy product, be it butter, cheese, whole milk, buttermilk, dry milk, condensed milk, ice cream, or evaporated milk, is, according to the interpretation of the act by the House Judiciary Committee, wholly and completely excluded from operation of the act.

During the debate on this measure in the Senate, Senator AUSTIN took occasion to make the following remarks with regard to the work of the committee having the bill in charge:

A. M. Loomis, representing the American Association of Creamery Butter Manufacturers, testified:

"* * * When the milk and cream reach the creamery or cheese factory they must be promptly taken care of. They cannot be carried over until the next day, because at this stage deterioration is rapid. * * *"

That argument applies to the making of all kinds of food products which are perishable in their nature, and show beyond any question how utterly futile it is to limit the hours and days in a manufactory of that kind, and undertake to move shifts out of a process such as that and move new shifts into it. * * * (CONGRESSIONAL RECORD, Senate, August 12, 1935, pp. 12878–12879.)

Obviously it was in the minds of the Senate committee that this act could not be applied to industries dealing with perishable commodities or products subject to rapid spoilage and

deterioration. Nor is there the slightest indication of intention to penalize any branch of the dairy industry because its product may reach the ultimate consumer in somewhat more stable form than that of some other branch of the industry.

During the debate on the measure in the House of Representatives, Congressman Greenwood, while explaining some of the salient features of the pending measure, stated:

> It makes certain exemptions. For instance, supplies of materials that should be purchased in the open market, or stock merchandise, in other words, as I understand it, and that nothing to be purchased under $10,000 in amount shall be considered; that agricultural, nursery, dairy, and perishable products shall not be considered subject to the law (CONGRESSIONAL RECORD, House, June 18, 1936, p. 10077).

Former Representative Boileau, whose constituents were largely persons engaged in earning their livelihood from the production, processing, and distribution of dairy products, clearly stated what was in the mind of Congress when this act was being debated. Mr. Boileau stated:

> I do not presume the United States buys any farm products that are not processed, except perishables. Perishables are definitely exempted. So are dairy products, livestock, and nursery products. I cannot think of any other farm products that the United States Government buys (CONGRESSIONAL RECORD, House, June 18, 1936, p. 10101).

The statements of these gentlemen were not challenged but, on the contrary, were permitted to stand as clear expressions of the undoubted intent of Congress to exempt not only perishable products, in whatever form, but to extend this exemption to include all dairy products as well.

When a manufacturer contracts to supply evaporated milk to the Government, he is able to fulfill his contract only by handling and processing a most perishable basic product—milk. To this extent the evaporated-milk industry differs in no respect from the fluid-milk, ice-cream, cheese, or butter industries, the products of which are recognized by the Secretary of Labor as exempt under the Walsh-Healey Act. Throughout the entire processing of evaporated milk—from the delivery of the raw milk by the farmer to the sterilization of this product in hermetically sealed containers—the most careful, sanitary conditions and care in handling must be employed to prevent loss, spoilage, and deterioration of the basic product. It was obviously the purpose of Congress to exempt such contracts from the purview of the Public Contracts Act, and it is reasonable that such exemption be made.

In May of each year the Navy purchases its yearly supply of evaporated milk. This large contract is filled by the evaporated-milk industry during a season of the year when the cows are fresh, when milk production is at its height, when plants must, of necessity, be operated at peak capacity in order to process the tremendous flow of milk; not only is the operation highly seasonal in character but, because of the extreme perishability of milk, there is ever present the need for prompt, skilled, sanitary handling and continuous, uninterrupted processing from the moment milk commences flowing through the plant until the day's supply is exhausted—quite irrespective of the number of hours of work necessary to complete the task. The very nature of the product and the process will admit of no carry-over of 1 day's supply of milk to another for handling and processing at the whim or leisure of man if loss, spoilage, or deterioration are to be avoided.

The Secretary of Labor has interpreted this language to exclude canned milk. My State is one of the great milk-producing States of the Nation. We have factories which can or condense the milk. In those factories farmer boys or boys from the village are employed. During the seasons of the year when the milk runs high, the law steps in and says "You are limited to 8 hours, boys, to work." Cows do not recognize any 8-hour day. The operators are told, "If you work 1 minute over 8 hours, you must pay time and a half."

I am not speaking for the milk canners. I am speaking for the milk producers of Wisconsin and for the farmers of the country. Senators know that every cent of overhead that is added to the canned or evaporated milk is paid by the farmer. The backs of the farmers are literally being broken now by circumstances over which they have no control. Government has improved their lot. All this regulation burdens the farmer more. Many farmers are receiving only 2 to 2½ cents a quart for their milk. Now it is proposed to add an additional burden. Milk is brought into the factories, which can it. Then the minute a factory tries to sell milk to the Government, if anyone in the factory has worked more than 8 hours, the factory has violated the act. There is no rhyme or reason to this kind of thing.

Is the Congress of the United States afraid of some supergroup or superman? By constantly hampering we do not help. It is time the voice of the farmers of the country was heard in no uncertain terms.

In 1936 the Senate interpreted the language to mean just what I ask, but because the power was delegated to a member of the Cabinet the language was interpreted differently. Congress again delegated its power. Why must Congress keep on delegating its power—shirking the job? The power was delegated to a member of the President's Cabinet to say to the farmers of Wisconsin what they must do. The language of the act has been interpreted unreasonably—without good sense.

Mr. WALSH. Mr. President, will the Senator yield?

Mr. WILEY. I yield.

Mr. WALSH. In what way do the provisions of the bill compel farmers to comply with the law?

Mr. WILEY. I am very happy the Senator asked that question. Apparently the distinguished Senator was not listening. I said that the minute the product the farmer produces is loaded with an extra burden, the added overhead is charged to the farmer, who pays the bill. Then the Government, through its agencies, continues to foreclose mortgages on farms in Wisconsin and other places. Wisconsin was God's fairyland before a lot of these crackpot notions were put into effect. If you keep on thinking you can help by fool legislation, you will not find the remedy.

Mr. WALSH. Would the Senator exempt bakeries because the wheat comes from farms?

Mr. WILEY. That is beside the point; and the Senator is begging the question.

Mr. WALSH. The Senator by his amendment is asking that some of the largest industries of the country be exempted. I refer to the industries which can milk and sell it all over the country. The Government buys thousands and thousands of dollars' worth of milk for the Army and Navy.

Mr. WILEY. That is correct.

Mr. WALSH. The Senator is asking that concerns such as Borden and other big concerns be exempted from the provisions of the law. Why should they be exempted?

Mr. WILEY. Because the Congress in 1936 said so. A Cabinet officer said "No." Now the Senator wishes to accept the view of the Cabinet officer rather than the interpretation of the Congress of the United States.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. WILEY. I yield.

Mr. BARKLEY. What effect would the Senator's amendment have on the packing institutions which process livestock? Would it apply to them?

Mr. WILEY. Under the interpretation of the Cabinet officer, I do not think it would apply to them.

Mr. BARKLEY. Regardless of any Cabinet officer's interpretation, which may or may not have been correct, as I listened to the Senator's amendment it seemed to me it would apply to all institutions, not only those manufacturing milk products but packing houses as well.

Mr. WILEY. If the Senator will read the law as it now exists, it says——

Mr. BARKLEY. I am talking about the Senator's amendment.

Mr. WILEY. Very well. Listen to the law which was passed 2 years ago:

> Nor shall this act apply to perishables, including livestock and nursery products.

My amendment says:

Nor shall this act apply to dairy products or to perishables, including livestock and nursery products.

Mr. BARKLEY. Of course, a live animal is not a perishable thing; and the law would not apply to the live animal. However, it seems to me the amendment would apply to any concern which is manufacturing or processing livestock, regardless of the ruling of any Cabinet member, or regardless of the language which may have been included in some other act. The amendment applies to this particular act.

Mr. WILEY. If the Senator wishes to limit the language of the act as it is, I have no objection. An analagous situation is the canning of peas. Peas keep on growing all night and all day; and if they are not harvested they perish. Food values perish.

Mr. BARKLEY. They do not grow while they are being canned or after they are canned. Other peas may grow, but after the peas are gathered for the market they do not grow.

Mr. WILEY. I realize that that argument is based upon the false premise that we must do something to protect labor. Fair labor and fair capital will take care of themselves in this instance. However, there is one industry which is being crucified by inaction or fool action of government, and that is the dairy industry of the country. I am trying to speak a word for that industry.

I am trying to say that if it is desired to limit the application of the law to milk products and change the language of the law we passed 2 years ago, that is the privilege of Congress. After I offered my amendment, apparently it was shot to pieces on the theory that it would benefit the so-called milk canners. I say it would benefit the farmers. The committee which rejected it will hear from the farmers, and the Senate will hear from the farmers if it shall reject the amendment.

There is much more to be said, but I do not care to discuss the question further.

Mr. LUCAS. Mr. President, will the Senator yield for a question?

Mr. WILEY. I am very happy to yield.

Mr. LUCAS. Will the Senator from Wisconsin explain the difference between his amendment and the pending bill?

Mr. WILEY. Frankly, from my own personal point of view, I do not think there is any difference.

Mr. LUCAS. If there is no difference, what is the idea of the amendment?

Mr. WILEY. Will the Senator permit me to finish my answer?

Mr. LUCAS. I shall be glad to.

Mr. WILEY. The amendment is offered because the Secretary of Labor, interpreting the old law, which the Senate had already interpreted to mean just what I say my amendment means, said that it excluded canned milk.

That is the sum and substance of the matter. The committee blindly followed the Secretary of Labor. They took what she said, and not the report and the information given to the committee. They listened to her. That is the trouble with Congress right now. We are "listening to our master's voice." We had better listen to the voice of the people, and then we will "go places."

Mr. LUCAS. We had better listen to the voice of the Senator from Wisconsin.

Mr. WILEY. I thank the Senator; and I add we might listen to the voice of the Senator from Illinois. I hope the Senator from Illinois will join me in voting for the amendment.

Mr. LUCAS. The Senator has said there is no difference between his amendment and what is already in the bill.

Mr. WALSH. Let us have something in the RECORD. Is the Senator from Wisconsin through?

Mr. WILEY. Just a moment. In order that there may be no misunderstanding—because I was speaking probably facetiously in reply to the Senator from Illinois—I said that to me the language is synonymous; but the Secretary of Labor interpreted the original amendment to mean, as she explained very fully in her report to the committee, that the factories canning milk did not need this concession. I said, "No; not the canning factories, but the farmers do need it." So I have drawn this amendment, and she now says the amendment I have offered means exactly what I want it to say, that it will exclude products such as canned milk.

Mr. WALSH. Mr. President, first of all I desire to say that this amendment reaches only the class of persons processing dairy products who can contract with the Government for over $4,000. Who are that class? They are the canned-milk producers, one of the largest and most prosperous industries in the country. The amendment proposes to remove their employees and the concerns themselves from the exacting provisions of this law.

Every farmer in the country dealing in perishable dairy, livestock, and poultry products is excluded. It is only when the farmer sells his milk, his fruits, his vegetables, or his berries, or his poultry to a factory or to a canning establishment that the law is made applicable.

The regulations of the Department exempt nearly every possible perishable article that can be conceived of or thought of. The list covers several pages. Let me read some of the exceptions and exemptions:

The act does not apply to agricultural or farm products, including those processed for first sale by the original producers.

Contracts entered into by Government agencies for the purchase of raw unprocessed cotton are not subject to the provisions of the act.

When the contractor raises and cans his own fruit or vegetable products the canning by him is exempt from the provisions of the act as an agricultural product processed for first sale by the original producer.

A farmer processes hemp for himself and other farmers and the sale price is divided equally on each lot. If he processes and sells the hemp to the Government as agent for the farmers, the contract is exempt from the act. If the farmers sell their hemp to him for half of the resale price and he sells to the Government on his own account, his contract with the Government will not be a first sale and will be subject to the act.

On pages 18, 19, and 20 there is a list of perishables; and they include almost every article of dairy, livestock, or poultry character.

I am going to conclude by reading what the Secretary of Labor has said about this amendment:

In general, this amendment would appear to open the way for other statutory exemptions, particularly as applied to canned food purchased by the Government. Furthermore, by depriving employees of the milk-canning industry of the protective labor standards afforded by the Public Contracts Act, this class of employees would be deprived of all protection afforded by Federal statutes prescribing minimum labor standards, since such employees are not subject to the Fair Labor Standards Act.

The companies engaged in the condensed-milk industry of necessity operate mechanized factories, and employees working in such factories are industrial employees who should be entitled to work under the same labor standards as employees of other industries when they are engaged in work on Government contracts that are subject to the Public Contracts Act.

In brief, this amendment proposes to lift out of the law all employees who work in dairy-product factories where milk and cream and condensed milk and condensed cream are processed and manufactured; and these are some of the largest purchases and contracts made by the Government.

I hope the amendment will be rejected.

Mr. WILEY. Mr. President, I merely wish to say that on page 6 of the report Fred H. Brown, Comptroller General of the United States, in reporting on this matter, is quoted as saying:

This Office perceives no objection to such amendment.

The average person does not understand the farm business. We have professors who can write books on how to run a farm, but when they get on a farm and attempt to run it that way they starve to death. When we from Washington want to keep on regulating things so that the farmer cannot get anything for his milk we are doing a dastardly thing; and we cannot go ahead and put up the camouflage or smoke screen that this is simply trying to benefit the so-called milk condenseries. That does not work. These condenseries are

just like other factories in the small cities and villages. They use local labor; and if we put additional overhead costs on milk, the farmer is the man who pays it.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Wisconsin [Mr. WILEY] to the amendment reported by the committee.

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment, in the nature of a substitute, as amended.

The amendment, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

DISTRIBUTION OF JUDGMENT FUND OF SHOSHONE TRIBE

Mr. O'MAHONEY. Mr. President, on Thursday last the Senate was considering Senate bill 1878, providing for the distribution of the Shoshone judgment fund. During the course of the consideration of the measure the senior Senator from Utah [Mr. KING] addressed the following question to me:

I desire to ask the Senator from Wyoming whether or not any part of the $4,000,000 consists of interest?

In response to that question I said "Yes." There was then further colloquy, and I referred to the interest which was awarded by the Court of Claims and the Supreme Court upon the amount of the judgment.

I misunderstood the question of the Senator from Utah, and I desire to have the RECORD made clear upon the point. The Senator from Utah was evidently endeavoring to ascertain whether or not the Court of Claims had included interest in the judgment which was handed down. I misunderstood him to ask whether or not the interest applied to the whole judgment.

The fact is that in allowing the Indians to file their claim Congress permitted them to assert their claim for interest upon the amount due. The claim of the Indians was filed more than 12 years ago, and originated, as I recall, prior to 1880, so that, as a matter of fact, the principal amount of the judgment was $1,581,889.50, and interest in the amount of $2,826,554.07 was allowed.

I desired to have the RECORD corrected in this respect.

EXECUTIVE SESSION

Mr. BARKLEY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The PRESIDING OFFICER (Mr. HILL in the chair) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

EXECUTIVE REPORTS OF COMMITTEES

Mr. LOGAN, from the Committee on the Judiciary, reported favorably the nomination of Emil J. Adam, Sr., of Mississippi, to be United States marshal for the southern district of Mississippi.

Mr. NEELY, from the Committee on the Judiciary, reported favorably the nomination of Robert W. Rabb, of Pennsylvania, to be United States marshal for the middle district of Pennsylvania.

Mr. O'MAHONEY, from the Committee on the Judiciary, reported favorably the nomination of Samuel O. Clark, Jr., of Connecticut, to be Assistant Attorney General in charge of the Tax Division of the Department of Justice, vice James W. Morris, resigned.

Mr. HUGHES, from the Committee on the Judiciary, reported favorably the nomination of Charles Alvin Jones, of Pennsylvania, to be judge of the United States Circuit Court of Appeals for the Third Circuit, vice J. Warren Davis, retired.

Mr. HARRISON, from the Committee on Finance, reported favorably the nomination of William J. Storen, of Charleston, S. C., to be collector of customs for customs collection district numbered 16, with headquarters at Charleston, S. C., in place of Charles J. Baker, whose term of office has expired.

Mr. WALSH, from the Committee on Naval Affairs, reported favorably the nominations of sundry officers for promotion in the Navy.

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters.

He also, from the same committee, reported adversely the nomination of Clarence F. Ludwig to be postmaster at Minersville, Pa., in place of J. F. Boran, removed.

The PRESIDING OFFICER. The reports will be placed on the Executive Calendar. If there are no further reports of committees, the clerk will state the nominations on the Executive Calendar.

POSTMASTERS

The Legislative Clerk proceeded to read sundry nominations of postmasters.

Mr. McKELLAR. I ask unanimous consent that the nominations of postmasters be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations of postmasters are confirmed en bloc.

IN THE ARMY

The Legislative Clerk read the nominations of Dwight True Hunkins and William John Penly to be second lieutenants in the Regular Army.

The PRESIDING OFFICER. Without objection, the nominations are confirmed.

ADJOURNMENT

Mr. BARKLEY. As in legislative session, I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 52 minutes p. m.) the Senate adjourned until tomorrow, Tuesday, July 18, 1939, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate July 17 (legislative day of July 10), 1939

UNITED STATES ATTORNEY

Frederick V. Follmer, of Pennsylvania, to be United States attorney for the middle district of Pennsylvania. Mr. Follmer is now serving in this office under an appointment which expired May 28, 1939.

PROMOTIONS IN THE ARMY

MEDICAL CORPS

To be majors

Capt. Sam Foster Seeley, Medical Corps, from August 1, 1939.

Capt. William Draper North, Medical Corps, from August 1, 1939.

Capt. Clifford Veryl Morgan, Medical Corps, from August 1, 1939.

Capt. William Henry Lawton, Medical Corps, from August 1, 1939.

Capt. James Elmo Yarbrough, Medical Corps, from August 1, 1939.

Capt. Abner Zehm, Medical Corps, from August 1, 1939.

Capt. Walter Frederick Heine, Medical Corps, from August 1, 1939.

Capt. Charles McCabe Downs, Medical Corps, from August 1, 1939.

Capt. John Winchester Rich, Medical Corps, from August 18, 1939.

Capt. Thomas Brown Murphy, Medical Corps, from August 18, 1939.

Capt. Huston J. Banton, Medical Corps, from August 18, 1939.

Capt. Hervey Burson Porter, Medical Corps, from August 18, 1939.

To be captains

First Lt. John Joseph Pelosi, Medical Corps, from August 1, 1939.

First Lt. Patrick Ignatius McShane, Medical Corps, from August 11, 1939.

First Lt. Louis Samuel Leland, Medical Corps, from August 20, 1939.

First Lt. Joseph Francis Linsman, Medical Corps, from August 20, 1939.

DENTAL CORPS

Maj. Albert Fields, Dental Corps, to be lieutenant colonel from August 18, 1939.

Capt. Roger Giles Miller, Dental Corps, to be major from August 15, 1939.

CHAPLAINS

To be chaplains with the rank of lieutenant colonel

Chaplain John Knox Bodel (major), United States Army, from August 16, 1939.

Chaplain William Roy Bradley (major), United States Army, from August 24, 1939.

Chaplain James Lloyd McBride (major), United States Army, from August 26, 1939.

CAVALRY

Capt. George Roland McElroy, Cavalry, to be major from July 12, 1939.

APPOINTMENTS IN THE REGULAR ARMY

The following-named reserve officers for appointment as first lieutenants in the Medical Corps, Regular Army, with rank from date of appointment:

Tillman Davis Johnson	James Francis Reilly
Carl Winn Hall	Hensley Starling Johnson
Michael Deane Buscemi	George N. Schuhmann
Raymond Cunningham Stiles	Fredrick Clinton Hopp
Russell Edward Hanlon	Harvey Clark Boyd
James Samuel Fisackerly	Carroll Steiner Svare
Henry Curtis Harrell	Edward John Doyle

POSTMASTERS

ALABAMA

Robert T. Sheppard to be postmaster at Decatur, Ala., in place of Leroy McEntire. Incumbent's commission expired May 29, 1938.

Julia J. Harkness to be postmaster at Eutaw, Ala., in place of J. J. Harkness. Incumbent's commission expired January 23, 1939.

Eunice D. King to be postmaster at Midway, Ala., in place of E. D. King. Incumbent's commission expired May 15, 1939.

Addie M. Cannon to be postmaster at Mount Vernon, Ala., in place of A. M. Cannon. Incumbent's commission expired May 15, 1939.

Jesse A. Harris to be postmaster at New Brockton, Ala., in place of J. A. Harris. Incumbent's commission expires August 22, 1939.

Roe P. Greer to be postmaster at Sylacauga, Ala., in place of R. P. Greer. Incumbent's commission expires August 27, 1939.

William F. Gulledge to be postmaster at Tallassee, Ala., in place of C. U. Totty. Incumbent's commission expired June 14, 1938.

Blanche Hendon to be postmaster at Townley, Ala., in place of Blanche Hendon. Incumbent's commission expired July 1, 1939.

Henry G. Sockwell to be postmaster at Tuscumbia, Ala., in place of H. G. Sockwell. Incumbent's commission expired March 8, 1939.

ALASKA

Agnes L. Reinert to be postmaster at Ketchikan, Alaska, in place of A. L. Reinert. Incumbent's commission expired May 1. 1939.

Richard F. Brennan to be postmaster at Petersburg, Alaska, in place of R. F. Brennan. Incumbent's commission expired January 17, 1939.

ARIZONA

Velasco C. Murphy to be postmaster at Globe, Ariz., in place of V. C. Murphy. Incumbent's commission expired June 17, 1939.

Wilcie G. Hoel to be postmaster at Peoria, Ariz., in place of W. G. Hoel. Incumbent's commission expires July 18, 1939.

Zola W. Buffington to be postmaster at Pima, Ariz., in place of Z. W. Buffington. Incumbent's commission expired July 17, 1939.

ARKANSAS

Irvin A. Blakely to be postmaster at Gurdon, Ark., in place of H. E. Powell. Incumbent's commission expired January 15, 1939.

Robert M. Wilson to be postmaster at Hope, Ark., in place of R. M. Wilson. Incumbent's commission expired May 10, 1939.

Arlis L. Coger to be postmaster at Huntsville, Ark., in place of J. J. Simpson. Incumbent's commission expired January 15, 1939.

James H. Carnahan to be postmaster at Prairie Grove, Ark., in place of J. H. Carnahan. Incumbent's commission expired June 26, 1939.

Travis E. Hamlin to be postmaster at Taylor, Ark. Office became Presidential July 1, 1938.

CALIFORNIA

Guy N. Southwick to be postmaster at Atascadero, Calif., in place of G. N. Southwick. Incumbent's commission expired February 20, 1939.

Leonard F. De Groff to be postmaster at Brea, Calif., in place of L. A. Hogue, deceased.

Emma B. Baily to be postmaster at Corte Madera, Calif., in place of E. B. Baily. Incumbent's commission expired May 31, 1939.

Carlton T. Hansen to be postmaster at Crescent City, Calif., in place of C. T. Hansen. Incumbent's commission expired February 9, 1939.

Thomas J. Caffery to be postmaster at El Monte, Calif., in place of T. J. Caffery. Incumbent's commission expired April 17, 1939.

Charlotte A. Cavalli to be postmaster at Half Moon Bay, Calif., in place of C. A. Cavalli. Incumbent's commission expired February 9, 1939.

Robert A. Ascot to be postmaster at Highland, Calif., in place of R. A. Ascot. Incumbent's commission expired June 18, 1939.

Hazel G. Nearing to be postmaster at Hondo, Calif., in place of H. G. Nearing. Incumbent's commission expired February 9, 1939.

Arthur J. Haycox to be postmaster at Hueneme, Calif., in place of A. J. Haycox. Incumbent's commission expired May 13, 1939.

John E. Nolan to be postmaster at Jamestown, Calif., in place of J. E. Nolan. Incumbent's commission expired February 9, 1939.

Louis E. Clay to be postmaster at Pacific Grove, Calif., in place of L. E. Clay. Incumbent's commission expired February 9, 1939.

Arvin P. Ralston to be postmaster at Patterson, Calif., in place of A. P. Ralston. Incumbent's commission expired March 19, 1939.

Eugene L. Scott to be postmaster at Porterville, Calif., in place of E. L. Scott. Incumbent's commission expired February 9, 1939.

Mary M. Wilson to be postmaster at Rio Linda, Calif., in place of M. M. Wilson. Incumbent's commission expired May 31, 1939.

Kelley C. Osgood to be postmaster at Riverbank, Calif., in place of K. C. Osgood. Incumbent's commission expired March 25, 1939.

Manuel Dos Reis, Jr., to be postmaster at San Anselmo, Calif., in place of Manuel Dos Reis, Jr. Incumbent's commission expired March 19, 1939.

Leo H. Strickland to be postmaster at Venice, Calif., in place of L. H. Strickland. Incumbent's commission expired February 20, 1939.

CONNECTICUT

Albert P. Walsh to be postmaster at Danbury, Conn., in place of A. P. Walsh. Incumbent's commission expired March 28, 1939.

John P. Bridgett to be postmaster at Wallingford, Conn., in place of J. P. Bridgett. Incumbent's commission expired July 30, 1939.

Charles A. Babin to be postmaster at Waterbury, Conn., in place of C. A. Babin. Incumbent's commission expired May 2, 1939.

James J. Lee to be postmaster at Willimantic, Conn., in place of J. J. Lee. Incumbent's commission expired March 28, 1939.

Robert E. A. Doherty to be postmaster at Winsted, Conn., in place of R. E. A. Doherty. Incumbent's commission expired May 13, 1939.

FLORIDA

Hugh McCormick to be postmaster at Eau Gallie, Fla., in place of Hugh McCormick. Incumbent's commission expired May 1, 1938.

Blanche B. Merry to be postmaster at Pass-A-Grille Beach, Fla., in place of M. B. Hardin, resigned.

Margaret H. Futch to be postmaster at Sebastian, Fla. Office became Presidential July 1, 1938.

James Frank Cochran to be postmaster at Tallahassee, Fla., in place of J. F. Cochran. Incumbent's commission expires August 22, 1939.

GEORGIA

Jim Lou Cox Hoggard to be postmaster at Camilla, Ga., in place of J. L. C. Hoggard. Incumbent's commission expires July 19, 1939.

William R. Melton to be postmaster at Cuthbert, Ga., in place of L. J. Wood. Incumbent's commission expired January 30, 1938.

Leila W. Maxwell to be postmaster at Danville, Ga., in place of L. W. Maxwell. Incumbent's commission expired July 1, 1939.

Hugh C. Register to be postmaster at Hahira, Ga., in place of Marion Lott. Incumbent's commission expired February 19, 1939.

Augustus B. Mitcham, Jr. to be postmaster at Hampton, Ga., in place of A. B. Mitcham, Jr. Incumbent's commission expired July 1, 1939.

Henry A. Lee to be postmaster at Marshallville, Ga., in place of L. G. Rambo. Incumbent's commission expired February 28, 1938.

David S. Cuttino to be postmaster at Newnan, Ga., in place of T. B. McRitchie, deceased.

Otis A. King to be postmaster at Perry, Ga., in place of O. A. King. Incumbent's commission expired January 22, 1939.

James L. Fricks to be postmaster at Rising Fawn, Ga. Office became Presidential July 1, 1938.

Sim A. Gray to be postmaster at Waynesboro, Ga., in place of C. A. Gray. Incumbent's commission expired January 30, 1938.

IDAHO

Lena M. Bohrn to be postmaster at Hansen, Idaho, in place of F. W. Sheesley, removed.

Frank H. Chapman to be postmaster at Parma, Idaho, in place of F. H. Chapman. Incumbent's commission expired May 2, 1939.

ILLINOIS

Herman G. Wangelin to be postmaster at Belleville, Ill., in place of H. G. Wangelin. Incumbent's commission expired June 17, 1939.

James M. Ryan to be postmaster at East Moline, Ill., in place of J. M. Ryan. Incumbent's commission expires July 26, 1939.

Otto F. Giehl to be postmaster at Metamora, Ill., in place of O. F. Giehl. Incumbent's commission expired February 7, 1939.

Joseph L. Lynch to be postmaster at Oak Park, Ill., in place of J. L. Lynch. Incumbent's commission expires July 18, 1939.

Charles F. Schmoeger to be postmaster at Peru, Ill., in place of C. F. Schmoeger. Incumbent's commission expired July 9, 1939.

Jacob Sand to be postmaster at Roanoke, Ill., in place of Jacob Sand. Incumbent's commission expired February 7, 1939.

Edward G. Zilm to be postmaster at Streator, Ill., in place of E. G. Zilm. Incumbent's commission expires August 13, 1939.

INDIANA

James Russell Smith to be postmaster at Gosport, Ind., in place of J. R. Smith. Incumbent's commission expires January 18, 1939.

Richard G. Averitt to be postmaster at Plainfield, Ind., in place of R. G. Averitt. Incumbent's commission expired May 2, 1939.

James C. Rice to be postmaster at Spencer, Ind., in place of J. C. Rice. Incumbent's commission expired March 15, 1939.

IOWA

Frances O'Donnell to be postmaster at Colo, Iowa, in place of M. M. Wilson, deceased.

Helen A. Mohr to be postmaster at Sabula, Iowa, in place of J. H. Petersen, removed.

KANSAS

Dean R. Marriott to be postmaster at Eureka, Kans., in place of Robert Focht, deceased.

Harold J. Schafer to be postmaster at McPherson, Kans., in place of H. J. Schafer. Incumbent's commission expired June 18, 1939.

William Ross Whitworth to be postmaster at Sedan, Kans., in place of B. E. Palmer, removed.

John E. Barrett to be postmaster at Topeka, Kans., in place of J. E. Barrett. Incumbent's commission expired March 23, 1939.

KENTUCKY

Thaddeus W. Wilson to be postmaster at Brandenburg, Ky., in place of T. W. Wilson. Incumbent's commission expired February 18, 1939.

John W. Tipton to be postmaster at Catlettsburg, Ky., in place of Wayne Damron, deceased.

William H. Pettus to be postmaster at Crab Orchard, Ky., in place of V. D. Bordes, resigned.

Claud Brown to be postmaster at Henderson, Ky., in place of Claud Brown. Incumbent's commission expired May 29, 1939.

Lawrence W. Hager to be postmaster at Owensboro, Ky., in place of L. W. Hager. Incumbent's commission expired June 26, 1939.

LOUISIANA

Jack Bostwick to be postmaster at Bastrop, La., in place of C. T. Matlock, deceased.

John E. Butler, Jr., to be postmaster at Port Allen, La., in place of J. E. Butler, Jr. Incumbent's commission expired May 23, 1936.

MARYLAND

Howard H. Wiley to be postmaster at White Hall, Md., in place of H. H. Wiley. Incumbent's commission expires August 14, 1939.

MASSACHUSETTS

Arthur Henry Boutiette to be postmaster at Farnumsville, Mass., in place of G. G. Kempton, resigned.

Richard J. Specht to be postmaster at West Springfield, Mass., in place of R. J. Specht. Incumbent's commission expired January 18, 1939.

Henry J. Porter to be postmaster at Wilmington, Mass., in place of F. J. Correia, removed.

MICHIGAN

John L. Swartout to be postmaster at Addison, Mich., in place of J. L. Swartout. Incumbent's commission expired April 26, 1939.

Marie L. Mottes to be postmaster at Alpha, Mich. Office became Presidential July 1, 1937.

Florence S. Abbott to be postmaster at Ann Arbor, Mich., in place of A. C. Pack. Incumbent's commission expired January 25, 1936.

Henry Miltner to be postmaster at Cadillac, Mich., in place of Henry Miltner. Incumbent's commission expired April 26, 1939.

John S. Courtney to be postmaster at Marquette, Mich., in place of J. S. Courtney. Incumbent's commission expired May 29, 1939.

Anna S. Warner to be postmaster at Mount Pleasant, Mich., in place of A. S. Warner. Incumbent's commission expired April 26, 1939.

Ralph C. Wolcott to be postmaster at North Adams, Mich., in place of W. E. Frederick, deceased.

Orin K. Grettenberger to be postmaster at Okemos, Mich., in place of J. O. Grettenberger, resigned.

Gilbert H. Davis to be postmaster at Royal Oak, Mich., in place of G. H. Davis. Incumbent's commission expired April 26, 1939.

Adeline E. Phillips to be postmaster at St. Louis, Mich., in place of F. B. Housel. Incumbent's commission expired January 23, 1935.

MINNESOTA

Ingval Lynner to be postmaster at Clarkfield, Minn., in place of Ingval Lynner. Incumbent's commission expired March 12, 1939.

Leon L. Bronk to be postmaster at Winona, Minn., in place of L. L. Bronk. Incumbent's commission expired May 1, 1939.

MISSISSIPPI

Ethel W. Still to be postmaster at Clarksdale, Miss., in place of E. W. Still. Incumbent's commission expired June 18, 1939.

MISSOURI

Joseph D. Stewart to be postmaster at Chillocothe, Mo., in place of J. D. Stewart. Incumbent's commission expires August 2, 1939.

Allen W. Sapp to be postmaster at Columbia, Mo., in place of A. W. Sapp. Incumbent's commission expired February 20, 1939.

Clarence C. Wilkins to be postmaster at Hornersville, Mo., in place of C. C. Wilkins. Incumbent's commission expired February 20, 1939.

Edgar G. Hinde to be postmaster at Independence, Mo., in place of E. G. Hinde. Incumbent's commission expired June 26, 1939.

Robert L. Chappell to be postmaster at Louisiana, Mo., in place of R. L. Chappell. Incumbent's commission expired May 17, 1939.

Zera Lee Stokely to be postmaster at Poplar Bluff, Mo., in place of Z. L. Stokely. Incumbent's commission expired April 6, 1939.

NEW HAMPSHIRE

Michael J. Carroll to be postmaster at Laconia, N. H., in place of M. J. Carroll. Incumbent's commission expired July 9, 1939.

NEW JERSEY

Edward Brodstein to be postmaster at Asbury Park, N. J., in place of Edward Brodstein. Incumbent's commission expired June 26, 1939.

John Russell to be postmaster at Barnegat, N. J., in place of John Russell. Incumbent's commission expired January 28, 1939.

James T. Brady to be postmaster at Bayonne, N. J., in place of J. T. Brady. Incumbent's commission expired April 17, 1939.

Everett H. Antonides to be postmaster at Belmar, N. J., in place of E. H. Antonides. Incumbent's commission expired April 17, 1939.

Norman H. Deshler to be postmaster at Belvidere, N. J., in place of N. H. Deshler. Incumbent's commission expired February 25, 1939.

Michael H. Connelly to be postmaster at Bloomfield, N. J., in place of M. H. Connelly. Incumbent's commission expired April 17, 1939.

Elizabeth MacBrair to be postmaster at Essex Fells, N. J., in place of Elizabeth MacBrair. Incumbent's commission expired April 2, 1939.

Verona K. Christie to be postmaster at Fanwood, N. J., in place of V. K. Christie. Incumbent's commission expired June 18, 1938.

George W. Karge to be postmaster at Franklinville, N. J., in place of G. W. Karge. Incumbent's commission expired February 25, 1939.

William D. Hayes to be postmaster at Millburn, N. J., in place of W. D. Hayes. Incumbent's commission expired June 8, 1938.

Wilmer Lawrence to be postmaster at Milford, N. J., in place of Wilmer Lawrence. Incumbent's commission expired February 25, 1939.

Patricia B. Hanlon to be postmaster at Mountain Lakes, N. J., in place of P. B. Hanlon. Incumbent's commission expired February 13, 1939.

Lillian M. Roe to be postmaster at Mountain View, N. J., in place of L. M. Roe. Incumbent's commission expired June 12, 1938.

Augustus J. Hans to be postmaster at Metcong, N. J., in place of A. J. Hans. Incumbent's commission expired May 30, 1938.

Abraham G. Nelson to be postmaster at New Market, N. J., in place of A. G. Nelson. Incumbent's commission expired February 13, 1939.

Harry J. Bowitz to be postmaster at Oakland, N. J., in place of Arnold Troxler, resigned.

John Jenkins to be postmaster at Port Norris, N. J., in place of John Jenkins. Incumbent's commission expired April 17, 1939.

Franke Vera Carter to be postmaster at Tenafly, N. J., in place of Franke Carter. Incumbent's commission expired June 7, 1938.

Helen S. Elbert to be postmaster at Vincentown, N. J., in place of H. S. Elbert. Incumbent's commission expired June 7, 1938.

NEW MEXICO

Frank J. Wesner to be postmaster at Las Vegas, N. Mex., in place of F. J. Wesner. Incumbent's commission expired February 12, 1939.

Mary E. Love to be postmaster at Lovington, N. Mex., in place of M. E. Love. Incumbent's commission expires August 26, 1939.

Antonio F. Martinez to be postmaster at Santa Fe, N. Mex., in place of A. F. Martinez. Incumbent's commission expired May 31, 1939.

NEW YORK

Edward P. McCormack to be postmaster at Albany, N. Y., in place of E. P. McCormack. Incumbent's commission expired June 18, 1939.

Robert J. Sheehe to be postmaster at Arcade, N. Y., in place of R. J. Sheehe. Incumbent's commission expired January 21, 1939.

Willard H. French to be postmaster at Atlantic Beach, N. Y., in place of W. H. Dummeyer, removed.

Andrew J. Melton to be postmaster at Bay Shore, N. Y., in place of A. J. Melton. Incumbent's commission expired June 28, 1939.

William J. Gleason to be postmaster at Cortland, N. Y., in place of W. J. Gleason. Incumbent's commission expired April 6, 1939.

Charles C. Curry to be postmaster at Dansville, N. Y., in place of C. C. Curry. Incumbent's commission expired March 23, 1939.

Arthur I. Ryan to be postmaster at Delmar, N. Y., in place of A. I. Ryan. Incumbent's commission expired July 9, 1939.

John J. Finnegan to be postmaster at Fairport, N. Y., in place of J. J. Finnegan. Incumbent's commission expired June 25, 1939.

Edward A. Rice to be postmaster at Freeport, N. Y., in place of E. A. Rice. Incumbent's commission expired May 31, 1939.

Joseph A. Seifert to be postmaster at Great River, N. Y. Office became Presidential July 1, 1938.

Joseph H. Wilson to be postmaster at Highland Falls, N. Y., in place of J. H. Wilson. Incumbent's commission expired January 29, 1939.

John W. Beggs to be postmaster at Jefferson, N. Y., in place of J. W. Beggs. Incumbent's commission expired January 28, 1939.

Robert F. McCabe to be postmaster at Johnson City, N. Y., in place of R. F. McCabe. Incumbent's commission expired July 2, 1939.

Edward Hart to be postmaster at Lake Placid Club, N. Y., in place of Edward Hart. Incumbent's commission expired June 25, 1939.

Everard K. Homer, to be postmaster at Livingston Manor, N. Y., in place of E. K. Homer. Incumbent's commission expired June 28, 1939.

Dudley C. Merritt to be postmaster at Locust Valley, N. Y., in place of D. C. Merritt. Incumbent's commission expired April 6, 1939.

Minnie Losty Smith to be postmaster at New Lebanon, N. Y., in place of M. P. Sullivan, removed.

Edward V. Canavan to be postmaster at Niagara Falls, N. Y., in place of E. V. Canavan. Incumbent's commission expired March 23, 1939.

Frederick J. Clum to be postmaster at Pawling, N. Y., in place of F. J. Clum. Incumbent's commission expired March 19, 1939.

Harold T. Hubbard to be postmaster at Riverhead, N. Y., in place of H. T. Hubbard. Incumbent's commission expired February 28, 1939.

Teresa V. Ball to be postmaster at Rye, N. Y., in place of T. V. Ball. Incumbent's commission expired January 24, 1939.

Arthur H. Wart to be postmaster at Sandy Creek, N. Y., in place of G. J. O'Brien, deceased.

Mary F. Chambers to be postmaster at Shortsville, N. Y., in place of M. F. Chambers. Incumbent's commission expired June 28, 1939.

J. Frank Lackey to be postmaster at Tannersville, N. Y., in place of J. F. Lackey. Incumbent's commission expired May 31, 1939.

Wilfred R. Carr to be postmaster at Warwick, N. Y., in place of W. R. Carr. Incumbent's commission expired January 29, 1939.

Charles Green Brainard to be postmaster at Waterville, N. Y., in place of C. G. Brainard. Incumbent's commission expired May 17, 1939.

John E. Abplanalp to be postmaster at Youngsville, N. Y., in place of J. E. Abplanalp. Incumbent's commission expired May 8, 1939.

NORTH CAROLINA

John O. Redding to be postmaster at Asheboro, N. C., in place of J. O. Redding. Incumbent's commission expired February 18, 1939.

Frank H. Stinson to be postmaster at Banner Elk, N. C., in place of F. H. Stinson. Incumbent's commission expires July 27, 1939.

Henry L. Avent to be postmaster at Buies Creek, N. C., in place of H. L. Avent. Incumbent's commission expired July 1, 1939.

George F. Bost to be postmaster at Hickory, N. C., in place of G. F. Bost. Incumbent's commission expires August 27, 1939.

James F. Seagle to be postmaster at Lincolnton, N. C., in place of J. F. Seagle. Incumbent's commission expires July 27, 1939.

Russell G. Cashwell to be postmaster at Lumberton, N. C., in place of B. F. McMillan, Jr., resigned.

Michael B. Kibler to be postmaster at Morganton, N. C., in place of M. B. Kibler. Incumbent's commission expired June 25, 1939.

Marguerite W. Maddrey to be postmaster at Seaboard, N. C., in place of M. W. Maddrey. Incumbent's commission expired June 5, 1939.

Bonnie B. Shingleton to be postmaster at Stantonsburg, N. C., in place of B. B. Shingleton. Incumbent's commission expired January 16, 1939.

Duncan F. McGougan to be postmaster at Tabor City, N. C., in place of D. F. McGougan. Incumbent's commission expired June 5, 1939.

NORTH DAKOTA

George J. Mahowald to be postmaster at Garrison, N. Dak., in place of J. J. Behles, deceased.

OHIO

Clarence N. Greer to be postmaster at Dayton, Ohio, in place of C. N. Greer. Incumbent's commission expired June 1, 1939.

Glenn C. Swartz to be postmaster at Polk, Ohio, in place of G. C. Swartz. Incumbent's commission expired July 2, 1939.

Clare S. Myers to be postmaster at Roseville, Ohio, in place of C. S. Myers. Incumbent's commission expires July 22, 1939.

Grover C. Speckman to be postmaster at Warsaw, Ohio, in place of G. C. Speckman. Incumbent's commission expired July 2, 1939.

Howard W. McCracken to be postmaster at Zanesville, Ohio, in place of H. W. McCracken. Incumbent's commission expired June 1, 1939.

OKLAHOMA

Margaret Cummins to be postmaster at Chattanooga, Okla., in place of Margaret Cummins. Incumbent's commission expired June 26, 1939.

Grover H. Hope to be postmaster at Frederick, Okla., in place of G. H. Hope. Incumbent's commission expired June 12, 1939.

Hannie B. Melton to be postmaster at Hastings, Okla., in place of H. B. Melton. Incumbent's commission expired June 26, 1939.

Finis E. Gillespie to be postmaster at Hobart, Okla., in place of F. E. Gillespie. Incumbent's commission expired June 12, 1939.

James Q. Tucker to be postmaster at Hollis, Okla., in place of J. Q. Tucker. Incumbent's commission expired June 26, 1939.

Jack H. Kneedler to be postmaster at Kaw, Okla., in place of Gertrude Barker. Incumbent's commission expired May 29, 1938.

Shelby M. Alexander to be postmaster at Lone Wolf, Okla., in place of S. M. Alexander. Incumbent's commission expired June 1, 1939.

Charles H. Hayes to be postmaster at McLoud, Okla., in place of C. H. Hayes. Incumbent's commission expired March 14, 1939.

Jesse G. Ford to be postmaster at Roosevelt, Okla., in place of J. G. Ford. Incumbent's commission expired June 1, 1939.

Ernest J. Winingham to be postmaster at Sentinel, Okla., in place of E. J. Winingham. Incumbent's commission expired June 1, 1939.

Chester A. Holding to be postmaster at Tipton, Okla., in place of C. A. Holding. Incumbent's commission expired June 1, 1939.

Garland C. Talley to be postmaster at Welch, Okla., in place of G. C. Talley. Incumbent's commission expired June 1, 1939.

Robert R. McCarver to be postmaster at Wister, Okla., in place of R. R. McCarver. Incumbent's commission expired June 18, 1939.

OREGON

Sanford Adler to be postmaster at Baker, Oregon., in place of Sanford Adler. Incumbent's commission expired May 13, 1939.

Victor P. Moses to be postmaster at Corvallis, Oreg., in place of V. P. Moses. Incumbent's commission expired June 18, 1939.

Erma L. Basford to be postmaster at Florence, Oreg., in place of E. L. Basford. Incumbent's commission expired January 18, 1939.

Elof T. Hedlund to be postmaster at Portland, Oreg., in place of E. T. Hedlund. Incumbent's commission expired May 1, 1939.

William Reid to be postmaster at Rainier, Oreg., in place of William Reid. Incumbent's commission expired March 19, 1939.

Lester L. Wimberly to be postmaster at Roseburg, Oreg., in place of L. L. Wimberly. Incumbent's commission expired June 18, 1939.

PENNSYLVANIA

William Glenn Rumbaugh to be postmaster at Avonmore, Pa., in place of W. G. Rumbaugh. Incumbent's commission expires August 22, 1939.

Theodore C. Lamborn to be postmaster at Berwyn, Pa., in place of T. C. Lamborn. Incumbent's commission expired April 6, 1939.

James Robert McClure to be postmaster at Dillsburg, Pa., in place of J. R. McClure. Incumbent's commission expired May 8, 1939.

Stephen R. Stefanik to be postmaster at Elmora, Pa., in place of C. P. McCoy, deceased.

Herbert H. Park to be postmaster at Gibsonia, Pa., in place of H. H. Park. Incumbent's commission expired February 21, 1939.

Theodore K. Hagey to be postmaster at Hellertown, Pa., in place of T. K. Hagey. Incumbent's commission expired January 29, 1939.

Leon E. Shepherd to be postmaster at Malvern, Pa., in place of L. E. Shepherd. Incumbent's commission expired June 18, 1938.

Homer C. Kifer to be postmaster at Manor, Pa., in place of H. C. Kifer. Incumbent's commission expired July 3, 1939.

Franklin M. Rorke to be postmaster at Meadowbrook, Pa., in place of F. M. Rorke. Incumbent's commission expired May 2, 1939.

Alexander Grafton Sullivan to be postmaster at New Kensington, Pa., in place of A. G. Sullivan. Incumbent's commission expires August 22, 1939.

Charles L. Wagner to be postmaster at Paperville, Pa. Office became Presidential July 1, 1938.

Mary E. Stewart to be postmaster at Petersburg, Pa., in place of M. E. Stewart. Incumbent's commission expired January 29, 1939.

John Edgar Schmidt to be postmaster at Ringtown, Pa., in place of R. E. Spancake, resigned.

Bertha M. Kintzer to be postmaster at Robesonia, Pa., in place of B. M. Kintzer. Incumbent's commission expired January 29, 1939.

Irvin F. Mayberry to be postmaster at Schwenkville, Pa., in place of I. F. Mayberry. Incumbent's commission expired June 7, 1939.

Joseph E. Staniszewski to be postmaster at Shamokin, Pa., in place of J. E. Staniszewski. Incumbent's commission expired February 21, 1939.

Wilson C. Reider to be postmaster at Shickshinny, Pa., in place of W. C. Reider. Incumbent's commission expired June 9, 1938.

John N. Zimmerman to be postmaster at Sunbury, Pa., in place of J. N. Zimmerman. Incumbent's commission expired March 18, 1939.

Bessie S. Ferrell to be postmaster at Westtown, Pa., in place of B. S. Ferrell. Incumbent's commission expired May 8, 1939.

RHODE ISLAND

Robert E. Bitgood to be postmaster at Hope Valley, R. I., in place of R. E. Bitgood. Incumbent's commission expired May 15, 1939.

Edward F. McCarthy to be postmaster at Wakefield, R. I., in place of E. F. McCarthy. Incumbent's commission expired March 18, 1939.

Grace S. Croome to be postmaster at West Kingston, R. I., in place of G. S. Croome. Incumbent's commission expired April 2, 1939.

SOUTH CAROLINA

Lewis M. Jones to be postmaster at Alcolu, S. C., in place of L. M. Jones. Incumbent's commission expired June 7, 1939.

Bessie W. Martin to be postmaster at Belton, S. C., in place of R. R. Martin, resigned.

Philip M. Clement to be postmaster at Charleston, S. C., in place of P. M. Clement. Incumbent's commission expired June 18, 1939.

Walter T. Barron to be postmaster at Fort Mill, S. C., in place of W. T. Barron. Incumbent's commission expired March 23, 1939.

Rufus R. McLeod to be postmaster at Hartsville, S. C., in place of M. S. McKinnon, deceased.

Hobson B. Taylor to be postmaster at Kershaw, S. C., in place of H. B. Taylor. Incumbent's commission expired April 2, 1939.

Albert H. Askins to be postmaster at Timmonsville, S. C., in place of A. H. Askins. Incumbent's commission expired May 7, 1938.

SOUTH DAKOTA

Florence Ferguson to be postmaster at Canton, S. Dak., in place of Florence Ferguson. Incumbent's commission expired April 2, 1939.

Ian H. Maxwell to be postmaster at Delmont, S. Dak., in place of I. H. Maxwell. Incumbent's commission expired March 12, 1939.

Edward E. Colgan to be postmaster at Edgemont, S. Dak., in place of E. E. Colgan. Incumbent's commission expired January 28, 1939.

Clarence J. Curtin to be postmaster at Emery, S. Dak., in place of C. J. Curtin. Incumbent's commission expired April 2, 1939.

Robert H. Benner to be postmaster at Gary, S. Dak., in place of R. H. Benner. Incumbent's commission expired February 20, 1938.

Ernest A. Schlup to be postmaster at Hudson, S. Dak., in place of E. A. Schlup. Incumbent's commission expired February 8, 1939.

Charles R. Dean to be postmaster at Rockham, S. Dak., in place of C. R. Dean. Incumbent's commisison expired February 8, 1939.

Inez M. Bruner to be postmaster at Sanator, S. Dak., in place of I. M. Bruner. Incumbent's commission expired January 28, 1939.

Charles F. Barg to be postmaster at White, S. Dak., in place of C. F. Barg. Incumbent's commission expired January 28, 1939.

TENNESSEE

Samuel H. Chase to be postmaster at Johnson City, Tenn., in place of S. H. Chase. Incumbent's commission expired July 3, 1939.

TEXAS

Clark A. Fortner to be postmaster at Crosby, Tex., in place of C. A. Fortner. Incumbent's commission expired March 15, 1939.

John M. Diggs to be postmaster at Haskell, Tex., in place of J. M. Diggs. Incumbent's commission expired May 22, 1938.

James R. Lipscomb to be postmaster at Hereford, Tex., in place of W. L. Pickett, deceased.

Joel H. Bugg to be postmaster at High Island, Tex., in place of V. G. Kirkpatrick, removed.

William A. Ham to be postmaster at Jacksboro, Tex., in place of W. A. Ham. Incumbent's commission expired May 15, 1939.

Jennie R. Goodman to be postmaster at Laredo, Tex., in place of J. R. Goodman. Incumbent's commission expired July 18, 1939.

Charley J. McCollum to be postmaster at Lockney, Tex., in place of C. J. McCollum. Incumbent's commission expired March 15, 1939.

Paul Gene Stevens to be postmaster at Lone Oak, Tex., in place of W. C. Dowell, deceased.

A. J. Gardner to be postmaster at Muleshoe, Tex., in place of A. J. Gardner. Incumbent's commission expired March 15, 1939.

Benjamin B. Ward to be postmaster at Newcastle, Tex., in place of B. B. Ward. Incumbent's commission expired February 15, 1939.

John C. Terry to be postmaster at Plainview, Tex., in place of J. C. Terry. Incumbent's commission expired February 15, 1939.

Alvin E. Crawley to be postmaster at Ranger, Tex., in place of M. A. Davenport, removed.

Melrose H. Russell to be postmaster at Robert Lee, Tex., in place of M. H. Russell. Incumbent's commission expired May 2, 1939.

William A. Smith to be postmaster at San Saba, Tex., in place of W. A. Smith. Incumbent's commission expired January 25, 1939.

Jewell F. Cobb to be postmaster at Seminole, Tex., in place of J. F. Cobb. Incumbent's commission expired March 15, 1939.

William A. Robinson to be postmaster at Texline, Tex., in place of E. S. Sell, resigned.

Walter W. Merriman to be postmaster at Throckmorton, Tex., in place of P. E. Luker, resigned.

Annie H. Hughes to be postmaster at Woodville, Tex., in place of A. H. Hughes. Incumbent's commission expired January 25, 1939.

UTAH

Niels Stanley Brady to be postmaster at Fairview, Utah, in place of N. S. Brady. Incumbent's commission expired February 7, 1939.

Jesse M. French to be postmaster at Greenriver, Utah, in place of J. M. French. Incumbent's commission expired March 23, 1939.

Lydia R. Strong to be postmaster at Huntington, Utah, in place of L. R. Strong. Incumbent's commission expired July 1, 1939.

VERMONT

Smith M. Matson to be postmaster at Dorset, Vt., in place of S. M. Matson. Incumbent's commission expired June 18, 1938.

Irma K. Mitchell to be postmaster at Fairfax, Vt., in place of I. K. Mitchell. Incumbent's commission expired February 15, 1939.

Helen M. Boyle to be postmaster at Gilman, Vt., in place of H. M. Boyle. Incumbent's commission expired February 15, 1939.

J. Clarence Nolin to be postmaster at Jericho, Vt., in place of J. C. Nolin. Incumbent's commission expired March 16, 1939.

Henry C. Brislin to be postmaster at Rutland, Vt., in place of H. C. Brislin. Incumbent's commission expired June 18, 1938.

Francis J. Mullin to be postmaster at Wallingford, Vt., in place of F. J. Mullin. Incumbent's commission expired May 13, 1939.

Daniel P. Healy to be postmaster at White River Junction, Vt., in place of D. P. Healy. Incumbent's commission expired March 21, 1939.

VIRGINIA

Irven M. Keller to be postmaster at Abingdon, Va., in place of I. M. Keller. Incumbent's commission expired June 18, 1938.

Fletcher L. Elmore to be postmaster at Alberta, Va., in place of F. L. Elmore. Incumbent's commission expired June 18, 1939.

Rosalie H. Mahone to be postmaster at Amherst, Va., in place of R. H. Mahone. Incumbent's commission expired March 8, 1939.

Howard C. O'Bryan to be postmaster at Austinville, Va., in place of H. C. O'Bryan. Incumbent's commission expired July 1, 1939.

Joseph S. Hutcheson to be postmaster at Chase City, Va., in place of J. S. Hutcheson. Incumbent's commission expired May 13, 1939.

Nannie A. Chisholm to be postmaster at Clover, Va., in place of N. A. Chisholm. Incumbent's commission expired June 26, 1939.

Bernard E. Young to be postmaster at Dayton, Va., in place of B. E. Young. Incumbent's commission expired June 26, 1939.

Bernard M. Anderson to be postmaster at Dublin, Va., in place of B. M. Anderson. Incumbent's commission expires July 27, 1939.

John Alexander Garland to be postmaster at Farmville, Va., in place of J. A. Garland. Incumbent's commission expired June 18, 1939.

Paul Scarborough to be postmaster at Franklin, Va., in place of Paul Scarborough. Incumbent's commission expired June 6, 1938.

Horace F. Crismond to be postmaster at Fredericksburg, Va., in place of H. F. Crismond. Incumbent's commission expired June 18, 1939.

George K. Fielder to be postmaster at Fries, Va., in place of G. K. Fielder. Incumbent's commission expired June 26, 1939.

Allan A. Lanford to be postmaster at Palmyra, Va., in place of A. A. Lanford. Incumbent's commission expired June 26, 1939.

Grace H. Jenkins to be postmaster at Powhatan, Va., in place of G. H. Jenkins. Incumbent's commission expires July 27, 1939.

John E. Pace to be postmaster at Ridgeway, Va., in place of J. E. Pace. Incumbent's commission expired July 1, 1939.

William B. Cocke, Jr., to be postmaster at Stony Creek, Va., in place of W. B. Cocke, Jr. Incumbent's commission expired January 18, 1939.

Jesse F. Reynolds, Jr., to be postmaster at Stuart, Va., in place of J. F. Reynolds, Jr. Incumbent's commission expires July 27, 1939.

Haller M. Bowman to be postmaster at Timberville, Va., in place of H. M. Bowman. Incumbent's commisison expired June 26, 1939.

Ernest E. Sine to be postmaster at Woodstock, Va., in place of E. E. Sine. Incumbent's commission expires July 27, 1939.

WASHINGTON

Lloyd K. Sullivan to be postmaster at Chehalis, Wash., in place of Lloyd Sullivan. Incumbent's commission expired May 2, 1939.

Edith M. Lindgren to be postmaster at Cosmopolis, Wash., in place of E. M. Lindgren. Incumbent's commission expired March 21, 1939.

Ernest H. McComb to be postmaster at Everson, Wash., in place of E. H. McComb. Incumbent's commission expired June 25, 1939.

Clarence A. Scott to be postmaster at Harrington, Wash., in place of E. A. Phillips. Incumbent's commission expired January 16, 1939.

Walfred Johnson to be postmaster at Lowell, Wash., in place of Walfred Johnson. Incumbent's commission expired June 18, 1939.

Leonard McCleary to be postmaster at McCleary, Wash., in place of Leonard McCleary. Incumbent's commission expired March 21, 1939.

James H. Callison to be postmaster at Palouse, Wash., in place of J. H. Callison. Incumbent's commission expired January 23, 1939.

Hazel M. Surber to be postmaster at Pe Ell, Wash., in place of H. M. Surber. Incumbent's commission expired May 2, 1939.

Bertha H. Welsh to be postmaster at Prescott, Wash., in place of B. H. Welsh. Incumbent's commission expired July 1, 1939.

Peyton B. Hoover to be postmaster at Rochester, Wash., in place of P. B. Hoover. Incumbent's commission expired March 21, 1939.

M. Berta Start to be postmaster at Winslow, Wash., in place of M. B. Start. Incumbent's commission expired March 8, 1939.

WEST VIRGINIA

Duncan M. Johnston to be postmaster at Alderson, W. Va., in place of D. M. Johnston. Incumbent's commission expired May 10, 1939.

Maurice L. Richmond to be postmaster at Barboursville, W. Va., in place of M. L. Richmond. Incumbent's commission expired April 6, 1938.

Olga O. Baughman to be postmaster at Belington, W. Va., in place of O. O. Baughman. Incumbent's commission expired June 26, 1939.

Marguerite E. Whiting to be postmaster at Glenville, W. Va., in place of M. E. Whiting. Incumbent's commission expires August 1, 1939.

David J. Blackwood to be postmaster at Milton, W. Va., in place of D. J. Blackwood. Incumbent's commission expires August 27, 1939.

Patrick J. Healy to be postmaster at Piedmont, W. Va., in place of O. W. Johnson, resigned.

Roy L. Pugh to be postmaster at Winona, W. Va., in place of R. L. Pugh. Incumbent's commission expired January 29, 1939.

WISCONSIN

Clarence L. Jordalen to be postmaster at Deerfield, Wis., in place of C. L. Jordalen. Incumbent's commission expired March 19, 1939.

Mathew E. Lang to be postmaster at Gillett, Wis., in place of M. E. Lang. Incumbent's commission expired January 18, 1939.

James D. Cook to be postmaster at Marinette, Wis., in place of J. D. Cook. Incumbent's commission expired March 19, 1939.

Anna C. Buhr to be postmaster at Marion, Wis., in place of A. C. Buhr. Incumbent's commission expired June 18, 1938.

Harry A. Victora to be postmaster at Middleton, Wis., in place of H. A. Victora. Incumbent's commission expired February 9, 1939.

Harry V. Holden to be postmaster at Orfordville, Wis., in place of H. V. Holden. Incumbent's commission expired January 18, 1939.

Edwin F. Hadden to be postmaster at Poynette, Wis., in place of E. F. Hadden. Incumbent's commission expired January 24, 1939.

Michael T. Lenney to be postmaster at Williams Bay, Wis., in place of M. T. Lenney. Incumbent's commission expired January 24, 1939.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 17 (legislative day July 10), 1939

APPOINTMENTS IN THE REGULAR ARMY

Dwight True Hunkins to be second lieutenant, Infantry.

William John Penly to be second lieutenant, Corps of Engineers.

POSTMASTERS

FLORIDA

Ruth K. Palmer, South Miami.

ILLINOIS

George P. Langan, Cairo.
Charles Mancel Wightman, Grayslake.
Charles F. Loeb, Urbana.

IOWA

Harry J. McFarland, Davenport.
Kate C. Warner, Dayton.
William A. Suiter, Le Claire.
Clarence H. Kemler, Marshalltown.
Donald D. Jansen, Onslow.
Carrie M. Skromme, Roland.
Merle B. Chader, Slater.

MAINE

Walter G. Anderson, Kittery Point.

MICHIGAN

Annah E. Turnbull, Clio.
Claude J. Tessman, New Haven.

MISSISSIPPI

Leslie L. Evans, Canton.
James H. Middlebrook, Ethel.
Charles M. Anderson, Gloster.
Erma O. Barnes, Louise.
Alec R. Moore, Meadville.
William J. Newton, Monticello.
Dallas E. Morgan, Sallis.

MONTANA

Karl Oliver Lentz, Baker.
Dudley W. Greene, Columbia Falls.
Raymond M. Birck, Corvallis.

NEW YORK

Raymond J. Watrous, Manhasset.
Olivia L. Kesselman, Roosevelt.

OHIO

Arthur C. Battershell, Hicksville.
Frederick B. Mowery, Kingston.
Hartman W. Staker, Wheelersburg.
Thomas B. Gephart, Williamsport.

OKLAHOMA

Isaac J. Loewen, Clinton.

RHODE ISLAND

William F. Harkins, West Barrington

SOUTH DAKOTA

Edith A. Sproat, Bradley.
Alex C. Lembcke, Garretson.
Ruel E. Dana, Hartford.
Thomas W. Lalley, Montrose.
William F. Curren, Vienna.

HOUSE OF REPRESENTATIVES

MONDAY, JULY 17, 1939

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Our Heavenly Father, maker of all things and lover of all men, we lift our grateful hearts to Thee in praise; this new day gives us fresh assurance of Thy fatherly care. We pray Thee to make it blessed with new hopes, new joys, and new visions of life. Thou who art the Good Shepherd, lead us into green pastures and besides still waters. Since our example means so much, may we not do the things which the restraints of a good name forbid. Fulfill in us that blessed beatitude:

Blessed are the pure in heart: for they shall see God.

We pray for Thy gracious blessing upon our President, his associates, and immediate advisers. Oh, gird them with more than human wisdom and with strength greater than their own that those things wisest and best may come to pass. Support us, O Lord, all the day long, and then give us Thy peace. In the holy name of our Saviour. Amen.

The Journal of the proceedings of Friday, July 14, 1939, was read and approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House, by Mr. Latta, one of his secretaries, who also informed the House that, on the following dates, the President approved and signed bills and a joint resolution of the House of the following titles:

On July 11, 1939:

H. R. 2310. An act to provide national flags for the burial of honorably discharged former service men and women.

On July 12, 1939:

H. R. 4674. An act to provide for the establishment of a Coast Guard station at or near the city of Monterey, Calif.

On July 14, 1939:

H. R. 3541. An act for the relief of John Chastain and Mollie Chastain, his wife; and

H. R. 4497. An act to prescribe rules for the enrollment of Menominee Indian children born to enrolled parents, and for other purposes.